



**The City of New York**

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**Commission to Investigate Allegations  
of Police Corruption and the  
Anti-Corruption Procedures of the  
Police Department**

# **C COMMISSION R REPORT**

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**July 7, 1994**

# **ANATOMY OF FAILURE: A PATH FOR SUCCESS**

## ACKNOWLEDGEMENTS

The Commission's work reflects the combined efforts of a great many people. Our findings, conclusions, and recommendations are the result of intensive investigations, countless interviews, painstaking collection and analysis of evidence, and many hours of writing and editing. So many people have so generously given us their time and expertise, it is impossible to recognize them all. Nevertheless, we must single out certain individuals and agencies for their special contribution to our work.

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**Commission To Investigate Allegations of Police Corruption  
And The Anti-Corruption Procedures of the Police Department**

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## **APPENDIX**

### **Exhibit One**

Executive Order No. 42 issued by The Honorable David N. Dinkins,  
Mayor of the City of New York, on July 24, 1992,  
Appointing the Commission to Investigate  
Allegations of Police Corruption and the  
Anti-Corruption Procedures of the New York  
City Police Department

### **Exhibit Two**

Opening Statement by The Honorable Milton Mollen,  
Commission Public Hearings, September 27, 1993

### **Exhibit Three**

Mid-Hearings Statement by The Honorable Milton Mollen,  
Commission Public Hearings, October 4, 1993

### **Exhibit Four**

Exhibits presented at the Commission Public Hearings,  
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### **Exhibit Five**

Letter dated December 27, 1993 to Mayor David N. Dinkins  
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Commission's Interim Report and Principal Recommendations,  
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New York City Police Department, Map of Patrol Precincts



## **Exhibit Eight**

### **The Failure to Apprehend Michael Dowd: The Dowd Case Revisited**

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- Trimboli and the 75th Precinct
- The R&T Grocery Store Robbery
- Corruption in the 75th Precinct
- The Trimboli Investigation
- The Pro-Active Plan
- The 79th Precinct Investigation
- The Yurkiw Investigation
- Final Developments
- Comments

## **CHAPTER ONE**

### **AN OVERVIEW AND SUMMARY OF THE COMMISSION'S FINDINGS**

This Commission has spent the past twenty-two months investigating the nature, extent and causes of police corruption today and the New York City Police Department's competence and commitment to prevent and detect it. When the Commission was created in July 1992 by Executive Order of Mayor David N. Dinkins we were given a three-fold mandate: to investigate the nature and extent of corruption in the Department; to evaluate the Department's procedures for preventing and detecting corruption; and to recommend changes and improvements in those procedures. What follows is the Commission's Report on the state of corruption we observed, the Department's ability and willingness to deal with it in recent years, and our recommendations for lasting change.

Part of what we found was uplifting, part was disheartening. But our fundamental conclusion is that this City has cause for faith in the future of our police department. Unlike the situation a generation ago, this Commission can confidently report that the vast majority of New York City police officers are honest and hard-working, and serve this City with skill and dedication each day. It also appears that the work of this Commission and the attitude of the Department's current leadership has resulted in a determined commitment to fighting police corruption. This is a critical achievement for the Department and the people of our City. Without such a commitment, no efforts to combat corruption will succeed. This Report is intended to help the Department maintain and carry out that commitment -- both today and in generations to come.

Despite our overall cause for optimism, we found that police corruption is a serious problem confronting our City. Our findings raise significant concerns about the nature of corruption today, the conditions that fuel it, the Department's willingness to confront and fight it and, perhaps most troubling, the potential for these problems to grow without sustained vigilance and oversight.

What we found is that the problem of police corruption extends far beyond the corrupt cop. It is a multi-faceted problem that has flourished in parts of our City not only because of opportunity and greed, but because of a police culture that exalts loyalty over integrity; because of the silence of honest officers who fear the consequences of "ratting" on another cop no matter how grave the crime; because of willfully blind supervisors who fear the consequences of a corruption scandal more than corruption itself; because of the demise of the principle of accountability that makes all commanders responsible for fighting corruption in their commands; because of a hostility and alienation between the police and community in certain precincts which breeds an "Us versus Them" mentality; and because

for years the New York City Police Department abandoned its responsibility to insure the integrity of its members.

All these factors contributed to the state of corruption we uncovered. While the systemic and institutionalized bribery schemes that plagued the Department a generation ago no longer exist, a new and often more invidious form of corruption has infected parts of this City, especially in high-crime precincts with an active narcotics trade. Its most prevalent form is not police taking money to accommodate criminals by closing their eyes to illegal activities such as bookmaking, as was the case twenty years ago, but police acting as criminals, especially in connection with the drug trade. Corruption occurred not only because of fortuitous opportunities and the frailties of human nature, but often because of created opportunities and premeditated, organized group effort.

Former police officer Michael Dowd, for example, did not just take bribes from drug traffickers to turn his head; he became a drug dealer himself and actually assisted and protected major drug operations. Former police officer Kevin Hembury did not only steal drugs, guns and money in the course of a series of unlawful searches; he was part of a gang of cops that raided drug locations almost daily for the sole purpose of lining their pockets with cash. Former police officer Bernard Cawley – nicknamed “the Mechanic” by his sergeant because he so openly and frequently “tuned people up,” or beat them – not only used informants to identify drug locations for robberies, but beat people indiscriminately in crime-infested housing projects in his precinct. And it is alleged that former police officer Alfonso Compres, one of the fourteen officers arrested thus far in the Commission’s year-long 30th Precinct investigation, did not just steal from drug dealers on the streets; he demanded regular payments to allow them to operate freely in his precinct and robbed those who did not pay – he even used his service revolver to shoot a dealer while stealing a package of cocaine while in uniform. To cover up their corruption, officers created even more: they falsified official reports and perjured themselves to conceal their misdeeds. Thus, while more limited in extent, police corruption has become more serious and threatening than ever before.

In the face of this problem, the Department allowed its systems for fighting corruption virtually to collapse. It had become more concerned about the bad publicity that corruption disclosures generate than the devastating consequences of corruption itself. As a result, its corruption controls minimized, ignored and at times concealed corruption rather than rooting it out. Such an institutional reluctance to uncover corruption is not surprising. No institution wants its reputation tainted – especially a Department that needs the public’s confidence and partnership to be effective. A weak and poorly resourced anti-corruption apparatus minimizes the likelihood of such taint, embarrassment and potential harm to careers. Thus there was a strong institutional incentive to allow corruption efforts to fray and lose priority – which is exactly what this Commission uncovered. This reluctance manifested itself in every component of the Department’s corruption controls from

command accountability and supervision, to investigations, police culture, training and recruitment.

For at least the past decade, the system designed to protect the Department from corruption minimized the likelihood of uncovering it. In a Department with a budget of over one billion dollars, the basic equipment and resources needed to investigate corruption successfully were routinely denied to corruption investigators; internal investigations were prematurely closed and fragmented and targeted petty misconduct more than serious corruption; intelligence-gathering was minimal; integrity training was antiquated and often non-existent; Internal Affairs undercover officers were often placed in precincts where corruption was least prevalent; reliable information from field associates was ignored; supervisors and commanders were not held accountable for corruption in their commands; and corruption investigators often lacked investigative experience and almost half had never taken the Department's "mandatory" basic investigative training course. Most Internal Affairs investigators and supervisors embraced a work ethic more dedicated to closing corruption cases than to investigating them. Most volunteered for Internal Affairs to get on a quick promotion track rather than to get corrupt cops off the job. Indeed, a survey of Internal Affairs investigators we conducted through an Internal Affairs "insider" revealed that over 50 percent of Internal Affairs investigators' time was spent on non-investigatory matters. And no one said a word about this state of affairs until this Commission commenced its investigations.

This was no accident. Weak corruption controls reduced the chances of uncovering serious corruption and protected police commanders' careers. Since no entity outside the Department was responsible for reviewing the Department's success in policing itself, years of self-protection continued unabated until this Commission commenced its independent inquiries.

This abandonment of effective anti-corruption efforts did more than avoid public exposure of corruption, it fueled it. It sent a message throughout the Department that integrity was not a high priority and that Department bosses did not really want to know about corruption. In short, it gave everyone in the Department an excuse for doing what was easiest: shutting their eyes to corruption around them.

And that is precisely what happened. The principle of command accountability, which holds commanders responsible for fighting corruption, completely collapsed. Supervisors and commanding officers were largely complacent about maintaining integrity. Few were concerned with corruption on their watch -- unless it exploded into an embarrassing corruption scandal. One officer in a high-crime precinct related how his commanding officer went so far as to announce at roll call that he knew his officers were committing acts of corruption, and gave them this bit of advice: if you get caught, keep your mouth shut. Obviously, any officer who hears that message will conclude that his bosses are content to let corruption continue -- despite the Department's rhetoric to the contrary.

Patrol officers, too, shut their eyes to corruption. Officers from various commands told this Commission that they would never report even serious corruption because they feared the consequence of being labeled a "rat" and lacked confidence in the Department's commitment to uncover corruption and maintain confidentiality. Indeed, so powerful is this code of silence that in dozens of Commission interviews and in recent group discussions held by the Department, police officers admitted that they would not openly report an officer as corrupt as Michael Dowd – though almost all of them would silently hope that he would be arrested and removed from the Department.

Even corruption investigators understood that avoiding scandal was often more important than uncovering corruption. As one Internal Affairs detective testified at a private hearing:

They [IAD's commanders] didn't want us to be effective. . . . They didn't want us to uncover any serious misconduct or large-scale or any kind of misconduct that would bring bad press to the Department or would cause embarrassment \*\*\* [serious] cases were not aggressively pursued. There was no aggressive posture taken when it could have a potential to develop into something that would cause embarrassment to the Department.

This attitude began at the top. At the Commission's public hearings, Daniel F. Sullivan, the veteran chief of the Department's Inspectional Services Bureau – and the Department's top uniformed commander of its corruption controls – testified about the Department's view of corruption investigations:

The Department [was] paranoid over bad press. . . . There was a message that went out to the field that maybe we shouldn't be so aggressive in fighting [police] corruption because the Department just does not want bad press. (Tr. 25)<sup>1</sup>

This attitude is no secret in the crime-ridden, narcotics-infested communities where police corruption is most prevalent. Numerous residents and leaders of these communities told us that they often do not know whom to suspect more: the cops or the criminals. Few civilians would ever turn to the Department to report corruption – because they believe the Department will invariably support even corrupt cops more than the public. They believe that no one with the same uniform really cares what cops do on the drug-ridden streets of North Brooklyn, Upper Manhattan, or the streets of any ghetto of this City. Regardless of the truth of this perception, it is the perception that often matters. And this perception poisons relations between the community and the police, compromising the credibility of the

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<sup>1</sup> Throughout this Report, references to "Tr." indicate pages in the transcript of the Commission's public hearings, held from September 27, 1993 through October 7, 1993.

vast majority of honest and dedicated cops who need the community's cooperation to carry out their difficult jobs effectively.

The Department also failed – or refused – to recognize that police corruption is a multi-dimensional problem that cannot be overcome by focusing solely on the corrupt cop and inadequate investigations. In so doing, the Department failed to insure that corruption controls operated on a variety of fronts and in the daily operations of the Department, including: recruitment, screening, integrity training, supervision, deterrence, accountability and police culture. Because of that failure, the Department abandoned some of its best tools for conquering corruption: the honest cop and the community.

Enlisting the support of the honest cop who comprises the bulk of the Department is critical to effective integrity controls. First, most corrupt officers start off as honest and idealistic. The focus must be on *keeping* them honest. We found that over time the constant and repeated exposure to certain conditions and temptations – especially those in high-crime and drug-ridden precincts – erodes the values and principles of many officers. This makes them more susceptible to corruption and to a culture that accepts and protects it. Second, it is honest cops who, by their silence, allow corruption to continue. Reforms must focus on making honest officers feel responsible for keeping their fellow officers honest, and ridding themselves of corrupt ones. Despite this, until recently no effort was made to encourage the honest cop to become part of the solution to corruption. To the contrary, honest cops, like the community, were often discouraged from doing so. Scores of officers told us that they believed the Department did not want them to report corruption, that such information was often ignored, and that their careers would be ruined if they did so. The evidence shows that this belief was not unfounded.

Convincing honest cops to help fight corruption will not be easy. The culture of group loyalty and protection is powerful – as it should be. It bolsters morale and is vital to successful policing. But too often an officer's loyalty to fellow officers – even corrupt ones – exceeds his loyalty to the Department and the law. The challenge is to redirect those otherwise admirable values away from cops who have tarnished the badge, and toward all those who honor it daily. We are convinced such a transformation is possible.

There is a strong basis for our optimism. First, history shows that a Department-wide tolerance for corruption can be turned into corruption intolerance with proper leadership and commitment. After the Knapp Commission's revelations of widespread police corruption, former Police Commissioner Patrick V. Murphy made integrity a centerpiece of his administration and held police commanders and supervisors personally accountable for combatting corruption. It worked. Successful integrity controls swiftly eliminated much of the corruption that had plagued the Department and a new code of ethics arose among the troops. That commitment eventually eroded because no mechanism was ever implemented to sustain it. But the point is that former Commissioner Murphy demonstrated that a

corruption-infested Department with a corruption-tolerant culture changed because of aggressive leadership and unwavering commitment.

An even more important basis for our sense of optimism is the essential values of the hundreds of honest officers of all ranks we interviewed over the past months. While they may yet be reluctant to turn in fellow officers who dishonor their badges, they silently hope that such officers are removed from the job. They despise corrupt cops and want the Department to root them out of their patrol cars and from their precincts. Their attitude gives rise to much hope. It shows us that the battle to change police culture is already half won. It shows us that the wall of silence is far from impenetrable and that the beginnings of widespread intolerance for corruption already exist.

We believe the Department has the leadership and commitment needed to transform the Department once again. We are confident that the current Police Commissioner has the skills and insights to accomplish his mission of driving corruption from the ranks of his Department. We have seen what appears to be a new era in the fight against police corruption. The Department, in partnership with this Commission, has begun to implement many of the reforms set forth in this Report. Much time, effort and resources have been devoted to strengthening corruption controls, signalling the Department's genuine commitment to fighting police corruption.

The challenge we face is to maintain that commitment long after this Commissioner departs and the glare of public scrutiny subsides. We believe the Department cannot maintain that commitment alone. If history proves anything, it is that when the glare of scrutiny shines on the Department, it can and will successfully police itself. But history also proves that left to its own devices the Department will backslide, and its commitment to integrity will erode. It is no coincidence that the only two times in the past twenty years that fighting corruption has been a priority in the Department was when an independent commission publicly reviewed and disclosed the Department's failures to keep its own house in order. This is because, in the words of former Police Commissioner Raymond Kelly and former Chief of Inspectional Services Daniel Sullivan, outside oversight "keeps the Department's feet to the fire." Indeed, law enforcement officials unanimously told us that the Department's heightened commitment and vigilance began only after the creation of this independent oversight Commission. Only a truly independent body, working with the Department but beyond its control, can sustain this commitment – and make the fear of failed corruption controls more powerful than the fear of corruption's disclosure.

There is another benefit to outside oversight. It will provide assurance to the public, when justified, that the Department is using its best efforts in the fight against corruption. Often, the public incorrectly views the Department's success in uncovering corruption as evidence of widespread management and integrity failures. As happened in the wake of the recent 30th Precinct case, an independent monitor can tell the public when the arrests of police officers is evidence not of the Department's failure to fight corruption but of its

successful commitment to rooting it out. It can help turn what has been traditionally a matter of shame for the Department, into a cause for pride. It can help reduce the pain of corruption disclosures – and thus the Department's reluctance to uncover it.

For these reasons, we recommend the establishment of a permanent independent oversight body so that the vigilance and determination to fight the police corruption we see in our City today does not again evaporate when public attention and political concerns turn elsewhere.

But independent oversight alone will not do the trick. The primary responsibility for combatting police corruption should and must remain with the Department. We are confident that the Department possesses the skills and the ability to fight corruption effectively. There are, however, numerous internal reforms and a new orientation to the approach of fighting corruption that must be adopted. We have recommended a wide-range of internal reforms and a new approach to combatting corruption that focuses on strengthening corruption detection and prevention, as well as on the conditions that nurture corruption and its tolerance. These include:

- improving screening and recruitment;
- improving recruit education and in-service integrity training;
- strengthening first-line supervision;
- reinventing the enforcement of command accountability;
- attacking corruption and brutality tolerance;
- challenging other aspects of police culture and conditions that breed corruption and brutality;
- enhancing sanctions and disincentives for corruption and brutality;
- strengthening intelligence-gathering efforts;
- preventing and detecting drug abuse;
- soliciting police union support for anti-corruption efforts;
- minimizing the corruption hazards of community policing; and
- legislative reforms.

External independent oversight will help insure that these reform efforts succeed. Ultimately, however, it is the Department's own officers, supervisors and commanders who will determine whether the battle is won or lost – whether a culture that tolerates corruption can be transformed into one that drives it out. Therefore, it is imperative that both these elements are present to devise effective reforms: successful internal Department controls coupled with an independent outside entity to insure their lasting success.

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To reach the conclusions and recommendations in this Report, the Commission sought information from a wide variety of sources. We reviewed thousands of Department



documents and case files; interviewed a number of corrupt officers who agreed to cooperate with the Commission; conducted hundreds of private hearings and interviews of former and current police officers of all ranks; audited, investigated and conducted performance tests of the principal components of the Department's anti-corruption systems; conducted unannounced on-site systems inspections; conducted an anonymous survey of Internal Affairs investigations with the assistance of an Internal Affairs "insider"; analyzed hundreds of investigative and personnel files; interviewed private citizens, criminal defense attorneys, alleged victims of corruption and criminal informants; conducted an extensive literature review on police corruption and prevention; and held a series of roundtable discussions and other meetings with a variety of police management and corruption experts including local, state and federal law enforcement officials, prosecutors, former and current police chiefs and commissioners, inspectors general, academics and police union officials.

We also undertook a number of special projects and conducted a series of private hearings on various critical aspects of corruption control, including Internal Affairs' operations and performance, recruitment and screening, training, supervision and command accountability, integrity control officers, police perjury and falsifications, as well as an empirical study of the connection between brutality and corruption.

The Commission also initiated a number of its own field investigations in various precincts in the City, sometimes in conjunction with local and federal prosecutors, targeting areas where our analysis suggested police corruption existed. We were aided in all of our efforts by former and current members of the Department of all ranks who came forward to offer their assistance and insights about the state of corruption and corruption controls in the Department.

From September 27, through October 7, 1993, the Commission held two weeks of public hearings to present much of the information we had uncovered in the three primary areas of our mandate.

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It was these investigations, audits and analyses that led to the conclusions presented in this Report. We believe that our findings and recommendations will strengthen the Department's ability and desire to fight corruption, not only today but in the future. We are not so naive as to believe that corruption can ever be completely eliminated among police officers, or in any other profession. Any occupation comprising large numbers will have some corruption. More than any other profession, however, the police face seductive opportunities to turn corrupt. Today, many neighborhoods of New York City are awash with drugs, money and guns, and our police are on the front lines. Potential for the misuse of power and strong temptations challenge many of our police officers to abandon their oaths every day. Given such circumstances, in a police department whose numbers will soon

exceed 31,000, some corruption is inevitable. But the tolerance for corruption is not. Nor can it ever be acceptable.

Our mandate was limited solely to the police. We are all too aware that corruption exists in other government agencies and other professions. But there are good reasons for special concern about police corruption. For most of us, police officers are the law and a symbol of justice. They are the first guardians of our safety and well-being. We depend on them for our protection and our peace of mind when confronted with news of crime and violence each day. As a society, we, therefore, have given police officers special powers not possessed even by our highest government officials. They have the power to arrest and deprive us of our liberty, the right to bear arms, and the right to use force in carrying out their duties. Every day, we allow our police to judge our conduct as citizens and, consequently, we expect their conduct to adhere to the strictest standards. When charges of corruption are levelled at the police, therefore, the public has a right to be alarmed and to demand an accounting and a solution.

What citizens often fail to see is that the Department's vast majority of honest officers are as alarmed as they are over corruption. Police corruption victimizes the honest cop as much as it does anyone else. Not only does the corrupt act of a police officer undermine the reputation and authority of his or her honest colleagues, it places them in real danger as they patrol our streets and attempt to protect us from those who would do us harm. Nobody, therefore, has a greater stake in insuring the honesty and incorruptibility of our police than the police themselves. And nobody can carry out that responsibility better than the police of our City. The findings and recommendations that follow are intended to help insure, for this generation and those to come, that this critical responsibility is successfully carried out.

## **CHAPTER TWO**

### **THE STATE OF MODERN POLICE CORRUPTION**

**"The crooks, however, that you have uncovered, the criminals seem to be a different breed of criminals [than twenty-years ago], . . . the guys you're digging up, these guys are walking around with lead-lined gloves and riding shotgun for organized crime people, it seems to me they have changed the nature of being a 'meat eater' in the Department. Instead of taking money to look the other way while someone else commits a street crime, they're out there competing with the criminals to commit street crimes themselves, and it seems to me that is a very big difference."**

**— Michael Armstrong, Chief Counsel, Knapp Commission  
Testifying before the Mollen Commission  
October 7, 1993**

The new nature of police corruption this Commission observed shatters many of the traditional, and more comforting, notions of police corruption that existed at the time our investigation began. When former police officer Michael Dowd was arrested in May 1992, the Department maintained that he was an aberration and that corruption was limited to a few "rogue cops." Police corruption was said to be a matter of isolated and sporadic opportunities, rather than planned or organized group efforts. It was said to be motivated solely by greed, nothing more. The Commission found that these notions of police corruption were wrong and vastly underestimate the serious nature of present-day corruption.

Today's corruption is far more criminal, violent and premeditated than traditional notions of police corruption suggest and far more invidious than corruption of a generation ago. Testimony and field investigations demonstrated that its most salient forms include groups of officers protecting and assisting drug traffickers for often sizable profits -- stealing drugs, guns and money -- and often selling the stolen drugs and guns to or through criminal associates; committing burglary and robbery; conducting unlawful searches of apartments, cars and people; committing perjury and falsifying statements; and sometimes using excessive force, often in connection with corruption. Greed is the primary motive behind these activities, but a complex array of other powerful motives and conditions also spur corruption.

How widespread this corruption is in the New York City Police Department is difficult to gauge. With a staff of under twenty investigators and attorneys it was, of course, impossible to determine the full scope of the problem in the Department's seventy-five

precincts and other commands. What we have concluded, however, is that in precincts where certain conditions exist -- in particular an active and open narcotics trade and high crime -- pockets of corruption are likely to exist in varying degrees of seriousness, frequency and size.

## **I. THE COMMISSION'S INVESTIGATIONS**

The Commission's findings are based on the consistent and repeated results of our field investigations; on information from hundreds of sources both in and out of the Department; and on an extensive analysis of patterns of corruption complaints. While we cannot disclose the full details of certain Commission field operations that are still under investigation, we can disclose that in every high-crime precinct with an active narcotics trade that this Commission examined, we found some level of corruption to exist. For example, the Commission's investigation into Manhattan North's 30th Precinct, which has thus far resulted in the arrest of fourteen police officers, revealed that a significant percentage of the precinct routinely engaged in some form of corruption. It further revealed that numerous other officers were complicit through their silence and protection of these corrupt cops.

Evidence disclosed at the Commission's public hearings in the Fall of 1993 suggests that groups of officers engaged in various levels of corruption in other narcotics-ridden precincts as well, including Manhattan South's 9th Precinct, the Bronx's 46th Precinct, Brooklyn North's 75th Precinct, and in the 73rd Precinct where the Commission's joint investigation with state and federal prosecutors has thus far led to the arrest of seven police officers on federal charges since our public hearings.

In evaluating the nature and extent of corruption, the Commission sought information from a variety of sources. Our first sources of information came from within the Commission and its staff. Our senior investigators were former police officers with long and varied experience within the Department. They were thoroughly familiar with the operations of the Department, its culture, and the likely sources of corruption facing officers today. In addition, like the Commissioners themselves, most of our staff attorneys had extensive experience in law enforcement and were thoroughly familiar with the operations of the criminal justice system. From the outset, therefore, our collective knowledge and experience guided the focus of our inquiry into the state of corruption.

Initially, we analyzed thousands of Department documents and corruption case files pertaining to corruption and reviewed thousands of corruption complaints lodged at Internal Affairs over the past five years. At the same time, Commission staff members conducted over one hundred private hearings or informal interviews with current and former members of the Department, including Internal Affairs officers of all ranks. Scores of interviews were also conducted with law enforcement officers from a number of agencies including the

District Attorneys' Offices, the United States Attorneys' Offices, the Federal Bureau of Investigation, the Drug Enforcement Administration and the Internal Revenue Service. We also interviewed defense attorneys, criminal defendants, private citizens who resided in precincts suspected of corruption and criminal informants who claimed to have knowledge of police corruption.

A number of police officers assigned to Internal Affairs and other commands who came forward on a confidential basis, provided us with invaluable information about corrupt activities. At an early stage of our investigation we therefore had a fairly clear picture of the prevalent forms of corruption within the Department, much of which involved the drug trade.

But the Commission's obligation extended beyond simply compiling information and allegations about corruption. We knew we must produce hard evidence, if any existed, of the extent and nature of corruption within the Department. This could be accomplished not only through our field investigations, but also through information and testimony provided by corrupt cops. Throughout our investigation we therefore sought to find police officers who had engaged in corruption who were willing to talk candidly about their own corrupt acts and those of their fellow officers. We knew that this would be no easy task. The code of silence was strong and would deter even officers publicly accused or convicted of corruption from talking frankly with us. But we also knew that if a corrupt officer could be persuaded to provide testimony or information about corruption based on personal experience, this would be of inestimable value to the Commission.

In the course of our investigation we obtained the cooperation of such officers. Sometimes with the assistance of various law enforcement agencies, we persuaded several corrupt officers to provide information to Commission investigators. Because of the constraints of continuing investigations at this time, we can identify only six: former police officer Michael Dowd of the 75th and 94th Precincts; former police officers Kevin Hembury, Philip Carlucci and Daniel Eurell of the 73rd Precinct; former police officer Bernard Cawley of the 46th Precinct; former detective Jeffrey Beck of the Drug Enforcement Task Force; and several police officers cooperating in the 30th Precinct investigation. Of these, Dowd, Hembury and Cawley testified about their careers of corruption at the Commission's public hearings. In addition, we secured the cooperation of a number of civilian accomplices and associates of corrupt police officers. These included "Mr. X," a widely used law enforcement informant, who testified at the Commission's public hearings under a pseudonym about corruption he observed among officers of the 9th Precinct.

Armed with fairly substantial knowledge of the likely patterns and locations of police corruption gained from our own analysis of corruption trends and information from reliable sources, the Commission staff launched a number of self-initiated field investigations where police corruption was likely to exist. Of course, with limited time and resources, we were unable to examine every precinct in the City, or even all the precincts where we found

indications of corruption to exist. We therefore concentrated our efforts on those commands we thought were most likely to produce evidence of corruption. Because evidence generated from Commission field investigations has been turned over to prosecutors, we cannot at this time identify all the precincts in which we operated or all the details of our operations. But, whenever possible, we employed the full panoply of investigative techniques, including electronic surveillance, undercover agents, informants and cooperating or "turned" police officers.

One critical point is that our investigative approach vastly differed from the Department's limited approach to the investigation of police corruption. Instead of focusing simply on the single corrupt cop, we designed our investigations to gain evidence of broad patterns of criminal conduct and conspiratorial wrongdoing. In essence, we approached our investigation as the Department would typically approach any investigation of organized and continuing criminal activity – except for police corruption. That the Department did not apply these basic approaches to their own corruption investigations speaks volumes about its past reluctance to uncover the full extent of police corruption in our City.

Our methods and philosophy in investigating police corruption are best illustrated by our investigation into the 30th Precinct. The Commission set out to determine whether precincts in the City suffered from corruption more widespread and complex than Internal Affairs had uncovered by the narrow "rotten apple" approach that characterized its investigations.

We began the 30th Precinct investigation by targeting precincts that exhibited the conditions that signal corruption hazards: densely populated, high-crime areas with extensive drug dealing, patrolled by tight-knit groups of officers. With these conditions in mind, we conducted an analysis of the patterns and volume of corruption complaints lodged at Internal Affairs, a review of their past investigations in certain precincts, and an analysis of individual officers with long histories of corruption allegations. The results of our analysis – based largely on information the Police Department had known about, but ignored, for years – focused our attention on the 30th Precinct.

In December 1992, approximately three months after the Commission staff was assembled, Commission investigators began a series of proactive investigative tactics that had been sorely lacking from the Department's internal investigations for years. Before long, our investigation identified a group of police officers who we suspected were engaged in drug corruption. Within a month, Commission investigators developed a confidential informant who confirmed that a number of police officers in the 30th Precinct were accepting payoffs from drug dealers in bodegas and various other storefront locations in the neighborhood. We immediately put our informant to work in an undercover capacity. Wearing a body recorder under the Commission's supervision, the informant was able to engage in a number of criminal transactions with an individual we suspected of paying off

police officers to protect drug operations. At this time, the Commission notified the United States Attorney's Office and the Manhattan District Attorney's Office of the evidence.

In the Summer of 1993, Commission investigators arrested a civilian targeted in our undercover operations who acted as the intermediary for drug dealers who were paying off police officers for protection of their drug operations. After his arrest, this individual agreed to cooperate with the Commission and the United States Attorney's Office.

His cooperation allowed us to develop substantial evidence of drug-related corruption against a police officer who had approximately seventeen corruption allegations already filed against him at Internal Affairs, most of which involved narcotics. None of these allegations had ever been substantiated by Internal Affairs.

At this stage of the investigation, the Commission and the United States Attorney notified the Police Commissioner about our investigation. He pledged the assistance of Internal Affairs to aid the investigation.

In the Fall and Winter of 1993, the investigation developed sufficient evidence to arrest two 30th Precinct police officers on charges of narcotics conspiracy. When faced with these charges, both officers agreed to cooperate with the investigation. Over the past months, these officers have worked in an undercover capacity, wearing recording devices, under the supervision of the Commission, the United States Attorney and selected members of the Police Department's Internal Affairs Bureau.

We discovered that the Department's past belief that corrupt officers will not cooperate or turn against fellow officers was wrong. When confronted with serious criminal charges, corrupt cops -- like most other criminals -- are often eager to assist prosecutors in exchange for consideration. The powerful code of silence has its limits. Indeed, largely because of this willingness to cooperate, the code name this investigation acquired was "Operation Domino."

The fruits of this investigation have thus far resulted in the arrest of fourteen police officers and ten of their drug dealer associates -- one of the largest, and most serious, police corruption cases in a generation. The investigation is still continuing at the time of the publication of this Report and additional arrests are anticipated.

Of course, the Commission could not produce an estimate of the full extent of corruption within the Department with scientific precision. We recognize that our concentration on corruption-prone precincts necessarily focused our attention on the Department's integrity problems. Notwithstanding this focus, what is significant about our findings is that whenever we searched for corruption, we found it. This helped lead to our unilateral conclusion: that where certain narcotics and high-crime conditions exist, serious corruption is likely to appear in various degrees of frequency and scope. Our conclusions,

therefore, about the nature and extent of present day police corruption was borne out by specific observations made on those areas we were able to examine in detail.

It is these findings on the nature and extent of corruption to which we now turn.

## **II. THE NEW NATURE OF CORRUPTION: AN OVERVIEW**

### **Corruption and Drugs**

Most serious police corruption today arises from the drug trade. And, not surprisingly, it is most prevalent in drug-infested precincts where opportunities for corruption most abound -- and the probabilities of detection have been slim. The explosion of the cocaine and crack trade in the mid-1980s fueled the opportunities for corruption by flooding certain neighborhoods with drugs and cash, and created opportunities for cops and criminals to profit from each other. It also eliminated the unwritten rule of twenty years ago that narcotics graft is "dirty money" that is not touched even by corrupt officers. With that change in attitude and opportunity came a wide spectrum of drug-related corruption ranging from opportunistic thefts from street dealers, to carefully planned group assaults on drug locations, and long term partnerships with narcotics traffickers.

The seriousness of drug-related corruption must not be minimized. Many have mistakenly characterized today's corruption as cops "merely" stealing from drug dealers -- or, in other words, punishing those who deserve to be punished. This is wrong. Today's narcotics corruption involves not only cops stealing from dealers, but cops using their authority to permit dealers and narcotics enterprises to operate freely and flourish on the streets of our City. Even worse: today's corruption involves officers using their police powers to actively assist, facilitate and strengthen the drug trade. Thus, the victims of corruption are not the drug dealers on the streets of East New York. Indeed, they are often corruption's beneficiaries. The victims of today's corruption are the thousands of law-abiding individuals who live in the high-crime, drug-ridden precincts of our City. They are victimized not only by the crime and drug trade in their neighborhoods, but by the assistance of officers who protect drug dealers rather than provide the police protection and services the public so desperately needs. Furthermore, cops who associate with drug dealers in the open view of the public breed cynicism among citizens. It breeds the sense of abandonment and hostility that poisons relations between the community and corrupt and honest cops alike. And corruption victimizes the millions of law-abiding residents of this City who depend upon the credibility and effectiveness of the police to fight the war against crime that threatens us all.

There is another new feature of narcotics-related corruption that the Commission observed. Unlike twenty years ago, today's corruption does not reach high into the chain of command. While certain supervisors engaged in corruption, most corruption was carried



out by uniformed patrol officers who are surrounded daily by drug traffickers operating in the streets, apartments and storefronts of their precincts.

Nonetheless, even the most elite units of the Department are not immune to the temptations of the drug trade. For example, while the Commission was in the midst of its inquiries in March 1993, two Department detectives, along with a State Police investigator assigned to the New York Drug Enforcement Task Force -- a highly reputed operation staffed by the Police Department, the United States Drug Enforcement Agency and the New York State Police -- were convicted of stealing drugs, money and jewelry from legitimate large-scale seizures, and enlisting the aid of an informant to sell the stolen drugs. And recently a detective assigned to the Organized Crime Investigation Division was arrested for selling confidential police information to members of organized crime.

We do not mean to suggest that all corruption today is linked to the drug trade or limited to drug-infested precincts. While the most pervasive forms of corruption are drug-related, the Commission learned about more traditional forms of corruption as well. These include officers who conspired with business owners to exaggerate insurance claims in return for a percentage of the recovery, received kickbacks for referrals to tow truck companies, befriended local store owners for free meals, drinks and merchandise, and used Department computers to sell various types of police information.

It is important to note, however, that as with drug-related corruption the vast majority of officers do not engage in these more traditional forms of corruption. To the contrary, most officers confront and reject these types of opportunities each day. Nonetheless, these forms of corruption should not be ignored by the Department. Many officers told this Commission that corruption is evolutionary: that it begins with minor misconduct and grows into serious corruption and crime. Thus efforts to prevent serious corruption must not disregard these more minor forms of corruption. The focus of this Commission, however, has been on uncovering the most pervasive forms of corruption today. These were typically serious crimes linked to drugs.

### The New Character of Police Corruption

That minor forms of corruption are no longer the most pervasive reflects a significant change in the nature of police corruption. Twenty years ago, the most common form of corruption was relatively minor. Officers of all ranks took bribes to allow gamblers, prostitutes and others to avoid the law and escape arrest. These "grass-eaters," as the Knapp Commission called them, constituted the majority of cops in the Department at that time; serious corruption, committed by what the Knapp Commission called "meat-eaters," was relative rare. Today the situation is reversed. Minor corruption is no longer systemic among the ranks. And for that the Department should be commended. But the "meat-eaters" are the rule rather than the exception among corrupt cops today.

Corruption of a generation ago was primarily characterized by a mutually beneficial accommodation between cop and criminal. Criminals offered bribes in return for immunity from arrest and cops accepted them – principally through standardized bribery “pads” which were highly systemic and hierarchial bribery schemes for the distribution and collection of bribes among police officers. In contrast, today’s corruption is primarily characterized by serious criminal activity. Officers in numerous narcotics-infested precincts throughout the City routinely stormed drug locations and stole whatever drugs, money or other property they could find; they stopped drug dealers and their vehicles and stole from them openly; and they sometimes used violence to carry out these activities.

Much of the corruption we found, however, was a modern form of accommodation corruption – and was far more serious and damaging than the accommodation corruption of the past. Criminals paid cops not only to turn a blind eye to criminal activities in their precincts; they paid cops to work hand-in-hand with them to actively facilitate their criminal activities. And many cops went so far to assist criminals that they used their police powers to become criminals themselves. Corrupt officers of generations past did not actually operate gambling or bootlegging establishments; they took money to allow them to operate. Michael Dowd, Bernard Cawley and others, however, did not just permit dealers to operate, they became dealers themselves and protected, assisted and helped to operate large drug rings.

#### **“Crew” Corruption: The New Organization of Corruption**

Many in the law enforcement community have remarked that “organized corruption” has vanished since the days of the Knapp Commission. This is partially – but not entirely – true. There is nothing today that corresponds to the long-running, institutionally perpetuated “pad” of twenty years ago. And the simplest, most common form of narcotics corruption today – lone officers “stealing” drugs and money from dealers – does not involve much group planning or organization.

Virtually all of the corruption we uncovered, however, involved groups of officers – called “crews” – that protect and assist each others’ criminal activities. This was accomplished in a variety of ways, including: identifying drug sites; planning raids; forcibly entering and looting drug trafficking locations; and sharing proceeds according to regular and agreed-upon principles. These crews vary in closeness, purpose and size. In the 30th Precinct, a large group of cops worked in quasi-independent groups of three to five officers, each protecting and assisting the other’s criminal activities. In the 73rd Precinct, a tightly knit group of eight to ten officers who worked together on steady tours of duty, routinely conducted unlawful raids on drug locations while on duty from 1988 to 1992. Sometimes most of the squad, ten to twelve officers, would attend clandestine meetings in desolate locations in the precincts – like one known as “the Morgue,” an abandoned coffin factory – to drink, avoid patrol duties and plan future raids.

The 75th Precinct had a similar gathering location known as "the Pool" -- an isolated inlet near Jamaica Bay -- where Michael Dowd and as many as fifteen other officers from his crew would meet while on duty, to drink, shoot their guns, meet their girlfriends and plan future criminal activities. Another former police officer, Bernard Cawley from the Bronx's 46th Precinct, told the Commission how he and various members of his crew of approximately twelve police officers routinely burgled drug locations and beat local residents as well as suspected criminals. In the 9th Precinct, groups of officers would meet in a local store to drink, use cocaine, and avoid their duties.

This "crew" corruption displays a new and disturbing form of organization. Whereas pads were standardized and hierarchical -- almost bureaucratic -- crews are more akin to street gangs: small, loyal, flexible, fast moving, and often hard hitting. They establish areas to plan and discuss their operations. They often structure their legitimate police work to generate the leads they need to locate promising targets. They use the police radio network, and code names, to mount and coordinate operations. They often use Department equipment to force entry. They manipulate fellow officers, their supervisors, and the courts to their advantage. And they fuel each other's corruption through their eagerness to prove their loyalty and toughness to one another.

There is another feature of today's corruption that reflects planning and organization among officers: corruption pacts. Engaging in open criminality safely requires an agreement among the officers involved. Having such an agreement was critical to their corrupt conduct because it was a way to doubly insure that fellow officers witnessing their crimes would not report them. As Dowd, Hembury, and Cawley testified at the Commission's public hearings, early in their tenure with their partners, they came to an agreement to share the proceeds of their corrupt activities. In Dowd's case, the agreements were quite explicit. Dowd told Commission investigators that each time he was assigned a new partner, he would deliberately "test" his willingness to engage in corruption by soliciting his partner to engage in minor forms of misconduct, such as taking free food and drinking on duty. Once he knew that his partner would engage in minor misconduct, he formed an express pact with him to share the proceeds of whatever corrupt acts they engaged in and to protect each other from detection. Apparently, each of his partners was willing to enter into such an agreement.

In other cases, the agreement was not as explicit. In Hembury's case, for example, there was no express agreement between him and his partners to share the proceeds of their thefts. Their corruption was a course of conduct that developed over time. Consequently, a tacit agreement arose whereby an officer who stole money would split it with his partner and any other officer who participated in the theft. Interestingly, in most cases, even if officers had a prior agreement to split money, they would not do so unless the other officer was actually present during the theft and knew about it. There is no honor among thieves, even if they happen to be police officers.

### **Methods to Create Corruption Opportunities**

We also found that corrupt cops did not just stumble upon opportunities for corruption, they sought them out. Numerous corrupt cops told us how they would elicit information from street dealers and other civilian accomplices on where large quantities of money and drugs could be found and when they would be transported. They would then attempt to steal from these "stash houses" or "bag men" transporting large quantities of cash. Dowd told us how he would "sniff out" potentially profitable radio runs -- and respond to those calls to be the first to arrive on the scene and fill his pockets freely. In the 30th Precinct, a group of cops devised a way to identify drug locations and stash houses based on the type of keys in a suspect's possession. Cops would unlawfully frisk suspected dealers and search known hiding places in apartment buildings for what they called "felony keys" -- keys to expensive locks. Since most residents in this low-income precinct had standard locks on their doors, a high security lock indicated a drug location, which the cops would then find and raid. Once inside a drug location, dealers usually hid their goods in floor tiles or other areas known as "traps" out of fear of rival dealers, robbers, and law enforcement. This did not hinder cops in pursuit of profit: they would climb into crawl spaces and rip out wall panelling or floor tiles -- often with the aid of devices like bathroom plungers -- until as Dowd put it the "gold mine" was hit.

### **Methods To Escape Detection**

Methods for evading detection often were similarly sophisticated and premeditated. In the 30th Precinct there was a highly organized method of regular protection payments from dealer to cop. Cops were too clever to accept payments directly from dealers. Instead, dealers would leave cash in brown paper bags for their police accomplices in neighborhood stores. The cop would then visit the location, and walk out with a brown bag filled with cash. Some of these payment schemes were fairly systematic, others were more opportunistic. One 30th Precinct officer allegedly picked up \$2,000 in cash each week, off-duty, at a local shop. Michael Dowd picked up \$8,000 in cash every Tuesday from an auto stereo shop that was a known drug location in his precinct, while on duty and in uniform.

To further insure their protection, corrupt -- and even honest -- cops would warn each other when Internal Affairs or a law enforcement "outsider" was in the precinct. They would transmit code words over their police radios -- like "W0-10" which meant "watch out 7 + 3" or 73rd Precinct -- to warn of "unfriendlies" in the area. In the 73rd Precinct, corrupt cops would use code names to identify each other and certain locations over police frequencies to carry out corrupt activities.

They also employed a division of labor in carrying out corrupt acts. While committing an unlawful raid, for example, cops would regularly assign each other specific roles for carrying out the raid and insuring that they were protected from other cops and

supervisors. To keep their victims quiet, they would employ a variety of schemes including leaving the dealer with some of his money or drugs, foregoing arrests, or threatening them with the consequences of making a report.

Other conditions also protected corrupt cops. First, victims of police corruption did not need much prodding to remain silent. They are often reluctant to report corruption. Internal Affairs' reliance on complaints for investigations meant that not only were officers safe from detection, but that the Department's official corruption statistics vastly underestimated the extent of the corruption problem in its precincts. More important, corrupt officers were typically protected by the silence of their fellow officers, and often the willful blindness of supervisors.

### **Profile of Today's Corrupt Cop: The Erosion Factor**

The crime and drug-ridden conditions that breed corruption opportunities are often so overwhelming and frustrating that they breed corrosive changes in attitudes and principles even among initially dedicated and honest cops. As a result, our findings revealed that the traditional – and rather comforting – notion that most corrupt cops “slipped through the cracks” during recruitment and should never have been permitted to join the Department is not always true.

Some of the most notoriously corrupt cops in the Department, were ideal recruits on paper: excellent references and employment histories, well respected and liked in their communities, and good scores on their psychological evaluations. Framed as an issue of “nature versus nurture,” we found that the latter – the influence of precinct environments and job culture – often controlled. While there is no excuse for succumbing to corruption, regular and constant exposure to certain conditions and opportunities in crime-ridden precincts changes the attitudes and behavior of some officers. This erosion theory of corruption helps explain why so many initially dedicated cops become corrupt. It further explains why so many honest cops are able to tolerate and overlook corruption among colleagues.

We also found that many – although not all – of these corrupt cops looked similarly “ideal” while in the Department: many of the 30th Precinct officers, for example, had outstanding performance and award records. Some had well over a dozen awards and honors for police work. Some cops performed well because despite their corruption they wanted to be effective cops; others because a stellar police performance served as a good cover to corruption. No one suspects a hero cop is a corrupt cop, as one arrested officer put it. Other corrupt cops, of course, had dismal performance records: few or no arrests in high-crime precincts, poor attendance and sick leave records. They had long ago abandoned their responsibilities as police officers.

## **The Mixed Motives Behind Corruption: A New Framework for Analyzing Corruption**

We also found that the traditional idea that police corruption is motivated solely by greed, no longer fully reflects what we found on the streets of New York. While money is still the primary cause of corruption, a complex array of other motivations also spur corrupt officers: to exercise power over their environments; to vent frustration and hostility over their inability to stem the tide of crime around them; to experience excitement and thrills; to prove their mettle to other officers and gain their acceptance; and to administer their own brand of street justice because they believe the criminal justice system will administer none. Corrupt officers usually raided drug locations for profit, but sometimes also to show who was in control of the crime-ridden streets of their precincts; sometimes to feel the power and thrill of their badges and uniforms; sometimes because they believed that vigilante justice was the only way to teach a lesson or punish those who might otherwise go unpunished.

Police falsifications and perjury too result from a variety of motives. Sometimes to cover up corruption or brutality; sometimes for personal gain; and sometimes for what is erroneously perceived as legitimate law enforcement ends.

As with corruption, officers use unnecessary force for a variety of reasons. In the vast majority of instances, force is necessarily used to protect the safety of officers or citizens. Officers frequently could not carry out their responsibilities without resorting to necessary force. But we have learned through testimony and field investigations that force is also used outside the bounds of necessity: to further corruption for profit; to establish respect, exert power, and vent frustration; and to administer what they believed was street justice.

Given these mixed motivations for corruption and violence, we found it useful to analyze the patterns of corruption we uncovered in terms of three categories: corruption for profit; corruption for power; and corruption for perceived "street" law enforcement ends. By focusing on the officers' intent, this framework helps to identify the causes and conditions that spawn particular forms of corruption – as well as strategies to prevent them.

### **III. PATTERNS OF CORRUPTION**

The salient patterns of corruption we uncovered were strikingly similar in precincts where comparable conditions existed. Each group of corrupt officers, however, established their own distinctive corruption methods, based largely on unique precinct characteristics. In Manhattan South's 9th Precinct, for example, where there exists an abundance of street dealers, public testimony indicated that one of the most common patterns of corruption involved cops shaking down street dealers. In Brooklyn North's 75th Precinct and Manhattan North's 30th Precinct, where large-scale, cash-laden drug traffickers operate, we found the patterns of corruption were more serious and complex. To explain the complexity

and range of modern police corruption, it is essential to examine each of the predominant patterns of corruption we found. These include:

**Section 1: Cops Committing Theft**

- from street dealers
- from radio runs
- from warrantless searches and seizures
- from legitimate raids and searches
- from car stops and drug “couriers”
- from off-duty robberies;

**Section 2: Cops Protecting and Assisting Narcotics Traffickers;**

**Section 3: Cops as Drug Dealers and Users;**

**Section 4: Police Perjury and Falsifications; and**

**Section 5: Police Violence and Brutality.**

**SECTION 1: COPS COMMITTING THEFT**

**Thefts From Street Dealers: “Shake Downs”**

The most common and simplest form of narcotics corruption is “shaking down” street dealers. According to a number of corrupt police officers and informants, officers would approach drug dealers operating on the streets of their precincts, force them to an alleyway, behind a building, or some other secluded location, and steal whatever drugs or money they found in their possession. If the dealer kept his drugs and money hidden somewhere nearby, some officers would threaten the dealer with arrest or with violence unless he revealed its location. Officers involved in the shakedown would sometimes split their “score” or proceeds in the patrol car or elsewhere. If drugs were stolen by the officer, they were usually concealed in a location to which the corrupt cop would return on his way home.

The size of scores from shakedowns varied depending on the dealer and the nature of the drug trade in a particular precinct. Most scores were not very large, ranging from a few dollars to a few hundred dollars. Nonetheless, even a high volume of small shakedowns could substantially contribute to an officer’s income. Dowd and his partner set shakedown goals of \$300 to \$500 a day -- and more in the holiday season -- which totaled approximately \$1,500 to \$2,500 a week. Scores in the heaviest narcotics precincts like the 30th Precinct, however, could bring in thousands of dollars, from the seizure of drugs and cash. One

former 30th Precinct officer, for example, chased a dealer into an apartment building, and stole a bag of crack and cocaine, which he later sold to another dealer for \$8,000.

Even this most simple form of narcotics corruption was not without premeditation and planning. For example, to avoid complaints, officers typically let drug dealers go free after their scores, or left them with some cash and drugs. As Dowd, Hembury, Cawley and others explained, if you left a drug dealer happy after stealing from him, he would not only be unlikely to complain, but would come to accept police shakedowns as a routine "tax" or cost of doing business. In many cases, officers would pretend to take drugs and money for vouchering as forfeited property and were doing the drug dealer a favor by letting him go unarrested. Far from considering himself the officers' victim, the dealer would then consider himself their friend. Officers could then use him to gain information about other dealers' lucrative drug locations.

These shakedowns were motivated primarily by greed -- but not entirely. Corrupt officers said they would sometimes steal ten or fifteen dollars from dealers, just to show who was boss in their precincts.

The extent of shakedowns depended largely on the kind of drug trade in the precinct and the officers' level of experience with corruption. Shakedowns were most common in precincts with a lot of street-level sales, rather than distribution of large quantities of drugs. Simply put, corruption was tied to the opportunities the local narcotics-trade presented.

We also found that corrupt cops often begin their corruption with simple shakedowns. Like Dowd and dozens of others, they then graduated to more lucrative, bold, and risky activities. Others stole from dealers only a few times in their career, without ever graduating to more serious corruption. But even this dabbling with corruption should not be ignored. Once an officer crosses the line, corruption of all types is easier to accept, justify, and protect.

### Thefts From Radio Runs

Calls for service or radio runs are the everyday business of patrol officers. In busy, high-crime precincts, some officers respond to twenty or more radio runs each day. These calls for service -- to the scenes of robberies, burglaries, domestic disputes, assaults, and murders -- afford the enterprising corrupt officer with numerous opportunities for gain by providing a legitimate reason for entering a premise. These opportunities are, of course, particularly abundant in high-crime drug precincts, where large amounts of cash, drugs, guns, jewelry, or other expensive property are often stashed in apartments, stores and other locations.



Police officers, especially those assigned to busy precincts, come to know their precincts extremely well, and can immediately identify a location where the opportunity for a score exists. Corrupt cops told us that they became expert at sensing corruption opportunities and would race to certain locations to search for money, drugs or other valuables before other officers arrived. Dowd, for example, testified that he and his partner would speed to what they called "rare locations", places not often the subject of radio runs -- even if it was miles outside their assigned sector -- because they were often stash houses used by drug rings, or private residences, where money or other valuables were likely to be kept.

Dowd once responded to a shooting incident at a home outside his sector because he suspected it was a well-stocked drug den. Dowd and his partner, Kenneth Eurell, were, as planned, the first to arrive at the scene. They entered the house, ignoring a corpse lying in the doorway. Dowd arranged to have other officers who had responded to the scene occupied while he searched the rooms. Inside a bedroom, Dowd found heroin and a semi-automatic weapon which he stuffed into a duffel bag. He and Eurell then left the premises passing other officers and a sergeant who never questioned them about leaving the scene of a crime with a large duffel bag. Their score from that radio run: approximately \$1,200 after selling the heroin to a local drug dealer, plus a gun.

Radio runs provided yet another avenue for corruption. In the 75th Precinct, for example, corrupt officers generated their own radio runs to specific locations by calling 911 with manufactured complaints. This practice provided a cover to justify an unlawful presence or entry into a location. In another precinct, which we are not at liberty to identify, police officers' used civilian accomplices, such as drug dealers, to call 911 with false complaints about locations where cash or drugs were stored. After receiving the radio runs generated by their associates, corrupt officers had an apparent justification to enter the premises to steal the contraband.

Not all thefts from radio runs arise from the narcotics trade. Enterprising officers find -- or create -- opportunities for profit in a variety of situations ranging from stealing from the home or body of a deceased person, to stealing cash or property from a private residence. In what Dowd testified was his most embarrassing act of corruption, he responded to a radio call from a sixteen-year old girl whose home had been burgled. With theft in mind, Dowd asked her if any money had been stolen. She responded that her mother kept their savings hidden, but she did not know where. He asked her to call her mother at work to find out where she hid her cash, and offered to check it for them. The mother and daughter trustingly told Dowd where their savings -- \$600 -- was hidden. He ran to "check," slipped the money into his pocket, and reported that their savings too had been stolen, failing to mention that he was the one who stole it.

## **Theft From Unlawful Searches and Seizures: "Raids," "Doing Doors," "Booming Doors"**

Corrupt officers do not often worry about having a pretext for entering apartments, stores, and other private locations. The Commission's investigation revealed that forcible, warrantless entries for the purpose of theft were at times a regular practice for on-duty officers in the precincts we examined. In groups ranging in size from two to thirteen, they would actively seek out locations where drugs and money were hidden, break in without warrants or probable cause and steal whatever drugs, money, guns, or other valuables they could find.

In the 73rd and 75th Precincts these break-ins were known as "raids," and three corrupt officers from the 73rd Precinct who agreed to cooperate with the Commission, all reported that approximately twelve to fifteen officers conducted these raids from 1986 through 1992. In the 30th Precinct this practice was known as "booming doors," and officers and drug dealers reported that a large number of officers regularly boomed doors for at least the past four years. In the 46th Precinct, the practice was known as "doing doors," and corrupt officers and drug dealers from that precinct told us that a closely knit group of twelve to fifteen officers assigned to a uniformed narcotics enforcement unit known as the Bronx Area Narcotics Drive ("B.A.N.D.") "did doors" in groups of two to six officers, almost daily -- sometimes storming eight to ten drug locations in a single tour.

The size of scores from these raids varied by precinct, reflecting differences in the nature of the drug trade in each. Scores in the 73rd and 75th Precincts ranged from several dollars to several hundred dollars. The biggest score Hembury ever made was several hundred dollars. Scores in the 46th Precinct, which had a more active and organized drug trade, ranged from several hundred to several thousand dollars -- Bernard Cawley's biggest score from a University Avenue drug den was over \$32,000: \$16,000 in cash, two handguns, 1-1/2 kilograms of cocaine which he sold to another officer for \$16,000. In the 30th Precinct, which has one of the largest and most organized drug trades in the City, the scores were often in the several thousand dollar range. The largest "score" of which we are currently aware in that precinct: over \$100,000.

But large scores were often the exception, not the rule in these precincts. As officers uniformly told us, money was not always the sole objective of these raids. In the 73rd Precinct, for example, there was not always enough money to be made to justify the risk of detection. The thrill of breaking down doors, of raiding drug dens, of shifting the balance of power from the criminals to the cops was also much of the allure of the activity. There was also a sense of justification that many corrupt cops would explain in interviews: that they were giving criminals what they deserved -- and what they believed the community really needed. Although we know that this was more of a rationalization than a true motive, this attitude did help corrupt cops justify their criminality to themselves and to each other. It also helped honest cops justify their silence.

But any such rationalization is baseless. Rather than shifting the balance of power from criminals to cops, these raids strengthen the power of drug dealers. They allow dealers to operate with immunity from the criminal justice system because cash or drugs buy their continued freedom. For the dealers, the raids and thefts became just a routine cost of doing business in an otherwise profitable precinct. In addition, these corrupt cops helped maintain the supply of drugs in the precinct by selling drugs they had stolen from one dealer back to others at low prices thereby supplying a relatively cheap source of drugs to friendly dealers for their own profit.

Despite differences in jargon and sizes of scores, the raids in Brooklyn North, Manhattan North and the South Bronx displayed strikingly similar features: they were planned and involved groups of officers who aggressively prospered from the drug trade. And in many of the precincts we examined, corrupt officers said there was an evolution to the raids.

In the 73rd and 75th Precincts, raids often began as a means to accomplishing a law enforcement end: arresting otherwise unapprehendable drug dealers who sold narcotics out of fortified locations (usually apartments, abandoned buildings, and storefronts) equipped with hiding places and escape routes meant to thwart law enforcement. At the outset, raids were haphazard and infrequent. They often took place at the end of the squad's tour so that an officer making an arrest in the course of a raid would maximize overtime payments. To justify the probable cause for the arrest, officers would falsify arrest and other records, and if the case went so far, perjure themselves before a grand jury or at trial to support the charges against the drug dealers and to escape charges against themselves.

Over time, however, the raids assumed a different purpose: to steal drugs, money, and handguns from the drug dealers. And, as their purpose changed, the raids became more frequent and highly organized.

Planning a raid in the 73rd Precinct, for example, often began right in the station-house or locker room while officers prepared for their tour of duty. Officers discussed plans about raids of drug locations and which of them wanted to participate. They selected locations based on their own observations of which drug spots in their sectors appeared to be doing a brisk business or on information provided by drug dealers, prostitutes, or other denizens of the neighborhood with whom they were friendly. Corrupt officers in the 30th Precinct often had their own regular group of "friendly" dealers who would provide information about rival dealers. Some 30th Precinct officers also roused drug dealers for the keys to their apartments, often searching for keys to high security locks which indicated prize raid sites. Officers in the 46th Precinct had fewer sources – but they utilized them to the fullest. Cawley, for example, testified about how he and his partners enlisted the assistance of a drug dealer to help them make bigger scores. After arresting the dealer on drug possession charges, they extracted an agreement from him to provide information about lucrative drug spots in return for his freedom. A profitable partnership thus began.

In one instance, the informant told Cawley and his partner about an apartment where drugs and money were hidden beneath a tile in the bedroom floor. While the informant was inside the apartment, Cawley and his partner kicked in the door, and chased everyone out except the informant. Alone in the apartment, the three found \$800 in cash under a floor tile, seven ounces of cocaine, and a handgun. The officers then pretended to arrest the informant by placing handcuffs on him and putting him in their radio car so that the people in the area would not suspect him of conspiring with the police. They then drove to a nearby motel where they split the money and drugs in three equal shares. For his safety, the informant stayed at the motel for several days to give the drug dealers in the precinct the appearance that he had been jailed because of the arrest. Before he went back to his residence in the precinct, Cawley gave the informant bogus court documents to show to anyone who may have questioned the arrest.

To plan and carry out raids, officers in the 73rd Precinct arranged clandestine meetings in desolate locations within the precinct by calling each other over the Department radio on an unused frequency. To mask their communications, officers used code names to call each other and to identify the place they arranged to meet. For example, Hembury was known as "Klondike," Eurell as "Double D," and Carlucci as "Pasquale." Their meeting place was known as "The Morgue." A typical radio communication to arrange a secret meeting among these officers would be: "Double D go to ten (change frequency). Double D and Pasquale, meet Klondike at the Morgue in ten (minutes)." If supervisors were monitoring the radios -- as they should have done -- no one ever asked what that meant.

Although there was no consistent number of sector cars or officers who would join the meetings, on occasion most of the 73rd Precinct evening tour attended these secret rendezvous -- four to seven sector cars with two officers in each car. Once at the meeting place, the officers discussed their plans for a raid, selected a location and assigned themselves various roles. Some officers would be responsible for breaking through the front door -- often with Department issued hammers and crowbars -- while other officers covered the rear of the building, the roof or other escape routes. The patrol cars then approached the location in tight formation, with radios and headlights off to escape detection and gain the element of surprise over dealers inside the premises they were about to assault.

Once inside it was every officer for himself. The officers stole whatever valuables they could find in the premises or on the people inside. Drug dealers within the building were typically let free, unless one of the officers wanted to make an arrest for overtime reasons. In that case, some of the money and drugs was vouchered, or recorded as evidence, to sustain the basis for the arrest.

Officers typically divided their "booty" according to their own set of rules. An officer who stole money split it with his partner, and with other officers at the raid who knew that money was stolen. The money might be split in the precinct bathroom, locker room, or at

a predetermined location where the officers stopped to meet before driving home. Two officers hid their \$800 score in rubber gloves in a nearby park.

Officers disposed of stolen drugs in one of three ways. The drugs were discarded or destroyed, kept for personal use, or sold to officers who had connections with drug dealers. If the drugs were sold, the profits were divided between the officer who stole the drugs and the officer who arranged the sale.

Stolen handguns were always a prize commodity. They provided several hundred dollars if sold. While some officers sold their stolen guns – sometimes to criminals – most officers either threw them away or brought them home. One officer even told us that stolen guns could be used as a “throw-away” to plant on a suspect in the event of a questionable police shooting.

Raids often resulted in a good measure of violent conduct on the part of these corrupt officers. To enter locations, they broke down doors with hammers and rams; to find drugs and money, they tore open walls and floor boards. They forcibly detained and rifled through their victims’ pockets and broke open safes and storage boxes. They threatened them with physical harm to get information about places and people to make even bigger scores. Sometimes, when unsuccessful in making a score, they ransacked the place.

#### **Thefts From Lawful Searches and Seizures**

Corrupt police officers also have stolen contraband in connection with lawful searches and seizures. Seized items were not even safe once they were in the stationhouse. In the 30th Precinct, for example, it is alleged that some of the arrested officers once stole about \$80,000 cash from a locked safe that was brought to the stationhouse for vouchering after a seizure.

This kind of corruption usually does not involve patrol officers. In March 1993, three investigators – two Department detectives and a New York State police trooper – assigned to the elite New York Joint Drug Enforcement Task Force (“D.E.T.F.”) were arrested for their attempt to sell heroin they stole from a lawful seizure of narcotics. All three subsequently pleaded guilty to federal narcotics distribution charges. One of the convicted detectives, Jeffrey Beck, provided information to the Commission.

In the D.E.T.F. case, instead of stealing directly from drug dealers, officers stole drugs, money, jewelry and other valuables seized as evidence in the course of legitimate investigations and safeguarded within the D.E.T.F. headquarters. According to Beck and court documents, Detective Joseph Termini stole heroin from a seizure of narcotics from a large-scale drug organization. He then recruited Beck and another D.E.T.F. officer to help him sell the stolen drugs. Beck, in turn, convinced a long-standing D.E.T.F. informant

to sell the heroin for \$25,000. Showing more honesty than the police officers for whom he worked, the informant told the Department's Internal Affairs Bureau of the officers' criminal plans and they were arrested.

The investigation revealed that the theft and attempted sale of the stolen narcotics by police officers was part of a pattern of crime involving civilian accomplices, that included: thefts of money and other valuables from the site of search warrant locations; conspiracy to rob drug traffickers under investigation by the D.E.T.F.; and conspiracy to burgle stash houses used by drug dealers under investigation. D.E.T.F. members used their positions as police officers to gain confidential information, including information from court-authorized wiretap interceptions, and to burgle drug locations before search warrants could be executed.

### **Thefts From Car Stops and Drug Couriers**

Because of the unusually large quantities of drugs and drug money being transported in and out of high volume narcotics precincts, corrupt cops devised schemes to score from the transportation of these large stashes.

Corrupt cops, for example, made unlawful stops and searches of cars they suspected of carrying drugs or money. When their suspicions were correct, the scores usually amounted to thousands of dollars. One 30th Precinct officer allegedly once found a bag of cocaine in an unlawfully stopped car which he sold to a dealer for \$16,000. Another cop allegedly made \$26,000 off a single car stop from drugs he found and later sold to a local dealer. Finding the stash in a stopped car is sometimes no easy feat. Drug traffickers – ever-concerned about being stopped or robbed – sometimes hid their goods in a concealed compartment, known as a “trap,” which cannot be located or opened without knowledge of the opening mechanism. Some traps, for example, could only be opened by putting the car in a specific gear while stepping on the brake pedal. Corrupt cops – like many effective, honest ones – were experts at finding and opening these traps.

Occupants of the car usually would be allowed to drive away without arrest. This minimized the likelihood of a complaint. But sometimes the occupants would be arrested, with only part of the drugs or cash vouchered – and thus charged with a lesser crime than warranted. Because the quantities of drugs transported in the 30th Precinct are often so large, skimming even part of the drugs could lead to thousands of dollars in profits.

When the stop or search was unlawful, officers falsified their statements about the arrest to cover for the unlawful acts. Fabricating a traffic violation or claiming to see contraband in-plain view was a commonly used pretext – which was virtually never questioned by supervisory officers. In one score from a car, for example, the records indicate that the officers fabricated a story for the District Attorney's Office about a car

running a red light, and that they then observed the butt of a gun in plain view. The driver of the car in this case complained about the unlawful stop, but the allegation was never substantiated.

In one precinct, another scheme was to rob drug couriers or "bag men" who carried large sums of drug money on their way to make wire transfers. On-duty officers would stake out money-wiring locations and rob the courier before he arrived to make the transfer. These robberies were typically well planned and organized. Cops would get -- often extort -- information from dealers about when large drop-offs would be made. They would then sit in their patrol cars waiting until their prey appeared. This scheme was so lucrative that there was competition among corrupt cops about who would make the score. On one occasion, two cops were sitting in their patrol car in front of a transfer location waiting for the pickup person to arrive. When he got there, another patrol car suddenly sped to the scene, jumped the man and stole his cash. The two preempted cops were given a token sum for their thwarted efforts.

Similarly, in the D.E.T.F. case, Jeffrey Beck told us that his former colleague, Detective Joseph Termini, had plans -- which never materialized -- to use confidential police information to rob a car transporting large quantities of money. Officers in the 73rd Precinct had similar plans to rob drug couriers which never materialized.

### Off-Duty Robberies

For some corrupt officers, criminal activities did not end with their tour of duty. For these cops, knowing the drug business in their precincts lured them back on off-duty hours to stage armed robberies of drug spots. These officers either worked alone, with civilian accomplices, or with other officers. In each case, however, the knowledge, gun, and badge that comes with being a police officer facilitated their crimes.

The most notorious case of this kind came to light in June 1992. Police Officer Robert Cabeza, a five-year veteran of Brooklyn's 83rd Precinct, was arrested for robbing a Brooklyn liquor store and murdering its owner in February 1991. Cabeza committed the robbery while off-duty and accompanied by civilian accomplices. In the course of the robbery, Cabeza displayed his police shield to his intended victims to gain access to an area protected by a plexiglass barrier. Once inside, Cabeza's accomplices followed. Cabeza then shot the store owner in the back as he lay on the floor. Cabeza had a history of complaints for drug dealing and robbery at Internal Affairs before he was finally arrested as a result of an investigation conducted by Brooklyn homicide detectives.<sup>2</sup>

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<sup>2</sup> On April 14, 1994, Cabeza was sentenced to twenty-five years to life in prison for the murder of Man Sing Chan.

In January 1993, another officer, Fabian Lorenzo of Manhattan's 9th Precinct, was arrested as a result of an investigation of a gang of criminals that broke into apartments and private houses to rob drug dealers of drugs, guns, and cash. Internal Affairs detectives arrested Lorenzo and three civilian accomplices as they planned to stage an armed robbery. At the time of his arrest, Lorenzo was carrying his service revolver and police badge.

Sergeant Joseph Trimboli's aborted investigation into the crimes of Michael Dowd and other officers of the 75th Precinct began, in fact, with an off-duty robbery. In July 1988, former 75th Precinct police officers Walter Yurkiw, Henry Guevara, and Jeffrey Guzzo committed an armed robbery of an East New York bodega that fronted for a drug sale location. After their arrest, Internal Affairs and Trimboli learned from a number of sources that Yurkiw, Guevara, Guzzo, Dowd, and a civilian accomplice often acted together as a stickup gang that committed several off-duty robberies of drug locations in the 75th Precinct. According to one informant, he tipped off Yurkiw and Dowd when narcotics and cash were present in drug spots they robbed. According to Dowd's own statements to us, he and these other officers committed a number of armed robberies not only for the loot, but to assist the drug operation he was protecting by intimidating competing dealers and disrupting the business of rival drug traffickers.

## **SECTION 2: COPS PROTECTING AND ASSISTING NARCOTICS TRAFFICKERS**

Some corrupt police officers went so far as to conspire with drug dealers to protect, assist, and strengthen their drug operations. They worked hand-in-hand with drug traffickers and other criminals to thwart law enforcement efforts. Narcotics protection schemes existed twenty years ago, but on a much more limited scale. As the narcotics trade has grown, so too have the opportunities for this form of corruption not only for officers in special narcotics units as was exclusively the case in the past, but for much of the patrol force which now has regular contact with drug operations.

There is one motive only for this form of corruption: money, and often much of it. Some drug organizations are willing to pay handsomely for the power, prestige and protection of having a New York City police officer on their payrolls. The most notorious case of police officers assisting large-scale drug rings was Michael Dowd and his partner, Kenneth Eurell, who from 1987 through 1988 received \$4,000 a week each to protect drug organizations operating in their precinct. Their Department paychecks: \$400 a week – ten times less than their illicit profits. In fact, Dowd's weekly narcotics profits were so high that, as he testified at the public hearings, he sometimes forgot to collect his Department paycheck. Officers in the 30th Precinct also collected thousands of dollars a week each for protection – generally several hundred dollars from various small dealers in exchange for immunity from arrest.



There are many ways cops use their powers to assist drug traffickers -- and many levels of involvement and assistance that can be provided. As the 30th Precinct case shows, "protection" ranges from cops providing permission to operate, to facilitation of operations; from occasional assistance, to long-term agreements for regular protection services. The most basic level of assistance is cops stealing drugs and money from street dealers in return for letting them operate freely on that day. The protection is immediate: no long-term relationship or promises are made. No active facilitation is involved. The protection offered dealers often was more long-term, organized and systematic. Cops and dealers entered into agreements whereby cops would allow dealers to operate freely and openly in their precincts, in exchange for regular, set payments that would be dropped off for cops at a specified location. The drop-off was usually at neighborhood stores to avoid direct contact and suspicions.

Some officers were paid not only to permit, but to facilitate drug operations. The most extreme level of facilitation is when the corrupt cops themselves become an integral part of the operation of the narcotics enterprise; when the corrupt cops themselves become dedicated drug traffickers. Such was the case with Michael Dowd, who when asked at the public hearings if at the height of his career he considered himself to be a cop or a drug dealer, he replied that he was "both." When asked whether he owed his allegiances as a New York City cop to the community he was supposed to be policing or the drug traffickers he was protecting, he replied, "I guess I'd have to say the drug traffickers." (Tr. 141)

According to Dowd, protecting drug rings in his precinct began with his meeting Baron Perez, a narcotics dealer who ran an automobile stereo shop that was actually a front for a drug distribution network. Dowd and Eurell began to visit Perez regularly while on duty and in uniform, taking their meals and drinking beer there to show their willingness to engage in misconduct in an effort to associate themselves with his drug business. As ties of trust developed between them, Dowd used cocaine in Perez's presence to seal their ties of confidence and eventually asked him to sell drugs that he had stolen while on duty. Soon a mutually beneficial -- and lucrative -- partnership between cop and crook began. Before long, Dowd met the drug ring's boss, Adam Diaz, and became a central figure in the operation of Diaz's drug ring by providing information, finding new drug locations and intimidating rival drug lords.

The 30th Precinct investigation unearthed several cops who spent much of their days with their drug dealer friends rather than policing the streets. While Dowd was the most extreme case of police officer turned drug trafficker, he was not alone. The Commission observed numerous ways other corrupt officers actively assisted and facilitated the drug trade in New York City. First, officers provide dealers with confidential information about such things as narcotics raids and undercover operations to protect them from detection by the police. Sometimes the information was real, sometimes not. Sometimes it was provided regularly, sometimes only when the opportunity arose. Dowd and Eurell, for example, were once offered \$8,000 to provide information on planned police activity in a drug area in their

precinct over the July 4th weekend. As patrol officers, they had no specific information on the narcotics division's planned activities, but based "just on common sense" as Dowd testified, they told the dealers their operations would be safe that weekend. Dowd and Eurell spent the weekend at home and made \$4,000 each. They were later put on retainer by a major drug ring to regularly provide intelligence on narcotics operations.

Officers, however, also provide genuine information on planned raids to thwart law enforcement efforts. On one occasion, Dowd testified that he learned that narcotics officers planned to raid a bodega under his protection. While in uniform, he immediately entered the bodega, pretended to buy two beers and signalled that a raid was imminent. When the raid took place a short time later, all operations had been shut down as Dowd had instructed. Law enforcement's efforts to shut down an active drug location were blocked, because of a corrupt cop.

Police officers also provide another valuable commodity to drug traffickers: armed police protection. This is typically done by protecting the transportation or transfer of large quantities of narcotics and cash. Officers do this by escorting a car transporting drugs or cash and intervening if the dealer's car is stopped by the police or rival dealers -- a practice known as "riding shotgun." In June 1993, for example, the Queens District Attorney's office charged officer Andre McDougal from Queens' 101st Precinct with accepting \$10,000 to escort and protect a drug dealer's delivery of \$100,000 in illicit drug proceeds. The officer's role was to intervene in the event the delivery car was stopped by the police. As recently as May 1994, the Brooklyn District Attorney's Office charged Sergeant Robert Santana of the 71st Precinct in Crown Heights with conspiring with a drug dealer to provide him armed protection during a narcotics transaction.

Having a cop on the payroll provides drug organizations with another valuable asset: power, or "juice" as Dowd put it. Corrupt officers and dealers who provided information to the Commission reported that traffickers sometimes paid officers to simply watch, while in uniform or in their patrol cars, while drugs or cash were being transported or loaded into a car. The key was the cop's visibility. This protected an organization from rival dealers by signaling to them -- and possibly to any law-abiding citizens watching -- that this drug ring has the power of a cop behind it.

Corrupt cops also used their police powers to strengthen the powers and profits of protected dealers by harassing and intimidating their competition. Some officers, for example, would get information from "friendly" dealers about rival dealers' well-stocked stash houses. They would then raid these locations, keep the cash, and sell any stolen drugs back to their dealer-associates at cheap prices. Dowd also testified that he and others would sit in his police car outside a rival dealers' sale location to disrupt his business. On other occasions, officers would submit narcotics intelligence reports on a rival's operations to instigate enforcement activities against them.

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What these various forms of protection reveal is far more than cops merely making money off drug traffickers. They reveal cops actively using their authority to facilitate and strengthen the drug trade and to thwart law enforcement efforts in the war against drugs. They reveal how easily narcotics corruption turns corrupt cops into criminals.

### **SECTION 3: COPS AS DRUG DEALERS AND USERS -- DISTRIBUTING AND USING DRUGS**

Drug corruption among several of the corrupt officers we interviewed did not end with efforts to score off drug dealers. Some of them were drug dealers and users themselves. For these officers, the theft of drugs was motivated solely by their desire to maintain a supply of drugs that they could distribute for profit.

There are three principal ways corrupt officers act as drug dealers. Some officers, in the course of their duties, cultivated connections with drug dealers who resided in their precincts. They would transact drug business with them both on or off duty, often in uniform. Certain officers arrested in the 30th Precinct, for example, routinely sold their stolen drugs to particular "friendly" dealers who operated in their precinct. We have been told that similar arrangements existed in other precincts including the 9th Precinct.

Other officers used fellow officers as "fences" for stolen drugs. In the 30th Precinct, for example, officers without connections to drug distributors would make deals to sell stolen drugs through colleagues they knew had such connections. Cawley and other officers of the 46th Precinct consistently used one particular colleague to sell stolen drugs and other contraband on their behalf. When an officer fenced drugs for a fellow officer, he ordinarily received a percentage of the sale price.

Still other officers, like Dowd, Kenneth Eurell and Carlucci, had off-duty, civilian connections, most of whom were personal friends and neighbors. They sold them the drugs they stole while on-duty in New York City for distribution in the localities where they resided. In fact, the arrests of these officers resulted from their involvement in a drug ring in Suffolk County rather than their criminal activities while on police duty in Brooklyn.

Police officers have also told us that they believe that personal drug use, especially the use of cocaine and steroids, has become a significant problem within the Department, even among officers who do not engage in other kinds of corruption. While the Commission cannot determine the full extent of this problem, information from these officers as well as from the Department's health services officials indicates that drug abuse among police has grown considerably in recent years. In fact, approximately 25 percent of all suspensions and dismissals of police officers is for drug use.

Because of the danger that drug abusing police officers pose to their colleagues and the community, the Commission recommends that a new aggressive drug deterrence and detection program be implemented, as is discussed in Chapter Five.

## SECTION 4: PERJURY AND FALSIFYING DOCUMENTS

**“Oh what a tangled web we weave when  
first we practice to deceive.”**

**-- Sir Walter Scott**

Police perjury and falsification of official records is a serious problem facing the Department and the criminal justice system -- largely because it is often a “tangled web” that officers weave to cover for other underlying acts of corruption or wrongdoing. One form of corruption thus breeds another that taints arrests on the streets and undermines the credibility of police in the courtroom. When the police lose their credibility, they significantly hamper their own ability to fight crime and help convict the guilty. A police officer’s word is a pillar of our criminal justice system. On the word of a police officer alone a grand jury may indict, a trial jury convict, and a judge pass sentence. The challenge we face in combatting police falsifications, is not only to prevent the underlying wrongdoing that spawns police falsifications but to eliminate the tolerance the Department and the criminal justice system exhibit about police who fail to tell the truth.

Our investigation into this form of corruption focused on a number of manifestations of the problem, including: testimonial perjury, as when an officer testifies falsely under oath before a grand jury or at a court proceeding; documentary perjury, as when an officer swears falsely under oath in an affidavit or criminal complaint; and falsification of police records, as when an officer falsifies the facts and circumstances of an arrest in police reports. We will collectively refer to these various kinds of wrongdoings as “falsification.”

In conducting our investigation of police falsification, the Commission sought information from a variety of sources. Commission investigators interviewed scores of former and current police officers and supervisors about falsifications; interviewed a number of prosecutors, defense attorneys, and civilians arrested for various offenses; conducted field investigations of narcotics enforcement units; and studied hundreds of Department arrest records, focusing on those involving narcotics and weapon offenses.

As with other forms of corruption, it is impossible to gauge the full extent of police falsifications. Our investigation indicated, however, that this is probably the most common form of police corruption facing the criminal justice system, particularly in connection with arrests for possession of narcotics and guns. Several officers also told us that the practice of police falsification in connection with such arrests is so common in certain precincts that it has spawned its own word: “testilying.”

A large part of the problem is that once officers falsify the basis for an arrest, search, or other action in a Department record -- such as an arrest report, complaint report, search warrant application, or evidence voucher -- to avoid Departmental or criminal charges, they

must stick to their story even under oath when swearing to a criminal complaint or giving testimony before a trial jury. But officers know that the operation of the criminal justice system itself usually protects them from having to commit testimonial perjury before a grand jury or at trial. The vast majority of charges for narcotics or weapons possession crimes result in pleas without the necessity of grand jury or trial testimony, thus obviating officers' concerns about the risk of detection and possible exposure to criminal charges of perjury.

Unlike other patterns of police corruption, greed is often not the primary motive behind police falsification. While the desire for overtime pay and career advancement sometimes encourage falsification, it typically occurs as a means to conceal other underlying acts of corruption or to conceal illegal steps taken for what officers often perceive as "legitimate" law enforcement ends.

Falsification to conceal corruption was a common practice among many of the corrupt officers cooperating with this Commission, including certain officers arrested in the 30th Precinct case. To explain how and why they were present in a particular premises or came to arrest a particular person, officers manufactured facts. For example, to justify an unlawful raid on a drug den where money or drugs were stolen, a common tale was that the officers entered the location in hot pursuit or on information from an unidentified informant. To justify unlawfully searching and arresting a street dealer from whom officers stole drugs or cash, a common tale was the person dropped a bag and ran as the officers approached.

In a typical example of this "corruption-cover" falsity, one cooperating officer reported how he and another officer illegally stopped a car without probable cause, searched the car without a warrant, and found a hidden car "trap" containing cocaine and a gun. The officers arrested the driver, vouchered the gun, and stole and later sold a portion of the seized cocaine. To conceal their crime, the officers falsified their arrest reports and then stuck to their fabricated story when the District Attorney's Office reviewed the case for prosecution. By one of the officer's own admissions, they concocted a realistic-sounding story: after stopping the car for running a red light, they observed a gun in plain view under the car seat, which led them to find the cocaine. Many acts of corruption, of course, never result in an arrest, and no falsification "cover" is necessary. Concealment is achieved simply by letting the criminal go free -- with eliminating the likelihood of a complaint and conviction.

Falsification can also conceal an officer's use of excessive force. A number of officers told us how they and others would insulate themselves from excessive force complaints simply by adding charges of "resisting arrest" to the arrest report -- a practice rarely questioned by supervisors. In the 30th Precinct case, for example, one officer reported how he and another officer chased and finally caught an individual who had run from his car after a traffic stop. While the officer was holding the individual, another officer struck the defendant in the head with his police radio. The officers then agreed upon a false story

justifying their stop and search of the car and about the circumstances of the defendant's head injury.

Officers also commit falsification to serve what they perceive to be "legitimate" law enforcement ends – and for ends that many honest and corrupt officers alike stubbornly defend as correct. In their view, regardless of the legality of the arrest, the defendant is in fact guilty and ought to be arrested. Officers reported a litany of manufactured tales. For example, when officers unlawfully stop and search a vehicle because they believe it contains drugs or guns, officers will falsely claim in police reports and under oath that the car ran a red light (or committed some other traffic violation) and that they subsequently saw contraband in the car in plain view. To conceal an unlawful search of an individual who officers believe is carrying drugs or a gun, they will falsely assert that they saw a bulge in the person's pocket or saw drugs and money changing hands. To justify unlawfully entering an apartment where officers believe narcotics or cash can be found, they pretend to have information from an unidentified civilian informant or claim they saw the drugs in plain view after responding to the premises on a radio run. To arrest people they suspect are guilty of dealing drugs, they falsely assert that the defendants had drugs in their possession when, in fact, the drugs were found elsewhere where the officers had no lawful right to be.

The Commission also found that police falsification results from efforts to insure that the circumstances of an arrest comply, not only with the Constitution, but with the Department's own regulations. Department regulations, for example, prohibit Street Narcotics Enforcement Units (S.N.E.U.) from entering buildings to make arrests. Consequently, some S.N.E.U. officers falsify arrest papers to make it appear as if an arrest that actually occurred inside a building took place on the street. Admitting the true facts of the arrest could lead to dismissal of the criminal charges and possibly to Departmental charges against the arresting officer. To many officers, this is a perversion of justice. In short, some officers falsify their arrest reports and, if necessary, their testimony to insure that the charges stick and that they are protected.

As with other forms of police corruption, falsifications are most prevalent in high-crime precincts where opportunities for narcotics and gun arrests abound. In such precincts, the prevalence of open criminal activity is high and the utility of an illegal search or arrest is perceived as great. Officers – often correctly – believe that if they search a particular person, or enter an apartment without a warrant, they will find drugs or guns. Frustrated by what they perceive to be unrealistic rules of law and by their own inability to stem the crime in their precincts through legal means, officers take the law into their own hands. And police falsification is the result.

We found that such motivations to falsify are often present in narcotics enforcement units, especially to justify unlawful searches or arrests. The Commission undertook an investigation of the practices of a certain unit of the Narcotics Division where our analysis of police records and intelligence sources indicated that the incidence of falsifications might

run high. While we cannot disclose the details of our investigation because we have referred the evidence to a prosecutor, the evidence suggests that certain officers in this unit falsified documents and may have committed testimonial perjury to conceal constitutional violations.

Even more troubling, the evidence suggests that the unit's commanding officer not only tolerated, but encouraged, this unlawful practice.

Such "shortcuts" not only violate basic constitutional rights -- they allow police officers, rather than the legislature, to make the law and enforce their own brand of street justice. They allow officers to abuse their authority for misguided ends -- regardless of how well-intentioned their motive. Even supposedly well-intended falsification, moreover, has devastating consequences for the criminal justice system and the public. Rather than insuring that the guilty are convicted, police falsifications often insure the opposite. Unlawful "shortcuts" at times require lying to a grand jury or to a trial jury -- and such deception is often transparent to jurors and judges. Many law enforcement officials we interviewed, for example, believe that police falsification has led to a rise in acquittals because juries increasingly suspect and reject police testimony.

There is another devastating consequence to "legitimate-end" rationalizations for police misconduct: it often fuels other kinds of corruption. Some corrupt police officers told us that their corrupt activities began from motives they believed to be legitimate. In the beginning, they unlawfully raided apartments to make drug arrests -- and lied about the facts in police reports. They quickly realized how easy it was to cross the line and take the law into their own hands with impunity. Soon they were raiding apartments to steal contraband for personal profit and letting suspects go free.

The Commission also found that an officer's motives for purported legitimate-end falsifications often served as mere pretext for personal gain. Unlawful arrests, for example, were sometimes conveniently timed to generate overtime pay for the arresting officer who typically took hours beyond his regular tour of duty to process the arrest.

"Collars-for-Dollars" is a practice widely known to officers, police supervisors, and prosecutors alike. In fact, a confidential report prepared by a prosecutor's office involving a pattern of police falsifications states that of the falsified arrests they investigated, "[a]lmost every arrest generated overtime pay for the officer who lied about observations." Besides overtime pay, high arrest numbers are often a factor considered for coveted assignments for patrol officers and supervisors alike.

In one precinct we investigated, a cooperating officer told us of a regular pattern of "trading collars." The purpose of this practice was to accumulate overtime pay for the officers involved. In this scheme, the police officer who actually arrested the defendant would pass off the arrest to a colleague who was not involved or even present at the time



of the arrest. Trading collars was done to maximize the overtime pay because the regular day off of the officer taking the arrest coincided with the likeliest date for a required court appearance. The officer who took the arrest would get all the details from the actual arresting officer, fill out the arrest papers, interview with the District Attorney, and, if necessary, testify to the circumstances of the arrest. This, despite the fact that the law requires the arresting officer to do this work. Officers perpetrated this scheme with the knowledge, approval, and in the presence of their sergeants. Another scheme to generate overtime was to have several officers and even supervisors state falsely that they recovered evidence incidental to an arrest. In this way, they insured that they would have to appear at the District Attorney's Office or before a grand jury on their day off and thus improperly receive overtime pay.

We initially investigated another possible type of police falsification: falsification not to conceal other unlawful acts, but as another form of corruption-for-profit. For example, officers accepting payoffs or other benefits to get lawful charges dismissed. We found no evidence that this occurs. In fact, we came across only one example of this type of perjury. By his own admission, Bernard Cawley lied before a grand jury to get charges dismissed against a drug dealer he had arrested, in exchange for the dealer's information about profitable drug locations Cawley and his accomplices could raid. That such a practice is rare makes sense. It is easier and safer for a corrupt cop to make a deal with a defendant on the street before an arrest is even made – and well before a vigilant supervisor, the District Attorney's Office, or the courts become involved.

Regardless of the motives behind police falsifications, what is particularly troublesome about this practice is that it is widely tolerated by corrupt and honest officers alike, as well as their supervisors. Corrupt and honest officers told us that their supervisors knew or should have known about falsified versions of searches and arrests and never questioned them. In testimony before the Commission, Kevin Hembury stated that one of his supervisors joked about how an arrest was manufactured:

Question: Now you just said there was a supervisor or a lieutenant who joked about [police falsifications] in your presence?

Hembury: That's correct, sir. Scenarios were, were you going to say (a) that you observed what appeared to be a drug transaction; (b) you observed a bulge in defendant's waistband; or (c) you were informed by a male black, unidentified at this time, that at that location there were drug sales.

Question: So, in other words, what the lieutenant was telling you is: here's your choice of false predicates for these arrests?

Hembury: That's correct. Pick which one you're going to use. (Tr. 57-58)

And, as mentioned, the Commission has evidence that at least one supervisor actively encouraged such falsifications to bolster his unit's performance.<sup>3</sup>

What breeds this tolerance is a deep-rooted perception among many officers of all ranks within the Department that nothing is really wrong with compromising facts to fight crime in the real world. Simply put, despite the devastating consequences of police falsifications, there is a persistent belief among many officers that it is necessary and justified, even if unlawful. As one dedicated officer put it, police officers often view falsification as, to use his words, "doing God's work" -- doing whatever it takes to get a suspected criminal off the streets. This attitude is so entrenched, especially in high-crime precincts, that when investigators confronted one recently arrested officer with evidence of perjury, he asked in disbelief, "What's wrong with that? They're guilty."

Officers and their immediate supervisors are not the only culprits in tolerating falsifications. When officers genuinely believe that nothing is wrong with fabricating the basis of an arrest, a search, or other police action and that civil rights are merely an obstacle to aggressive law enforcement, the Department's top commanders must share the blame. Indeed, we found that for years the Department was content to address allegations of perjury on a case-by-case basis, rather than pursuing the potential for a broader based investigation. For example, supervisors were rarely, if ever, held accountable for the falsifications of their subordinates. We are not aware of a single instance in which a supervisor or commander has been sanctioned for permitting perjury or falsification on their watch.

Nor do we know of a single, self-initiated Internal Affairs Division investigation into patterns of police perjury and falsification. The Commission's analysis of Internal Affairs' corruption categories -- designed to quantify different kinds of police wrongdoing -- revealed no separate category for perjury or falsification of records. Unlike other corruption categories, Internal Affairs over the last decade had no record of the number of falsification allegations brought against officers throughout the Department or in a particular precinct or command. There is no evidence that anyone in the Department's chain of command had focused on eliminating this practice, including past Police Commissioners and Internal

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<sup>3</sup> The identities of these supervisors cannot be disclosed at this time because their complicity, through encouraging or permitting these practices, is currently under investigation.

Affairs chiefs, who apparently turned a blind eye to unlawful practices that were purportedly committed to fight crime and increase arrest statistics.

Members of the law enforcement community, and particularly defense attorneys, told us that this same tolerance is sometimes exhibited among prosecutors. Indeed, several former and current prosecutors acknowledged -- "off the record" -- that perjury and falsifications are serious problems in law enforcement that, though not condoned, are ignored. The form this tolerance takes, however, is subtle which makes accountability in this area especially difficult. We have observed that provable cases of testimonial perjury are pursued in instances when the testimony of one eyewitness officer is squarely inconsistent with the testimony and reports of other officers and witnesses. In fact, in June 1993, the Manhattan District Attorney's Office obtained the conviction of a police officer who fabricated gun possession charges after the District Attorney's office noticed clear discrepancies in the officer's testimony.

But the signs of falsification and perjury are usually far more subtle: a story that sounds suspicious to the trained ear; patterns of coincidences that are possible, but highly unlikely; inconsistencies that could be explained, but sound doubtful. In short, the tolerance the criminal justice system exhibits takes the form of a lesser level of scrutiny when it comes to police officers' testimony. Fewer questions are asked; weaker explanations are accepted.

Testimonial perjury cases are often extremely difficult to prove, which may persuade prosecutors to apply their limited resources to what are likely to be more successful areas of prosecution. In one unit-wide investigation, despite significant evidence of widespread falsification of the circumstances surrounding searches and arrests, prosecutors judged that a prosecution could not succeed for a number of reasons, including that "the most difficult aspect of the case is the 'noble' motives of the officers in committing the crimes of perjury and falsifying documents," according to a confidential prosecution report. The report further states that a successful prosecution would be difficult because: "many of the jurors may agree with the police officer's decision to ignore the constitutional niceties of the Fourth Amendment to win the war against drugs" and because "it may be very difficult to generate among the jurors the feelings of outrage necessary to convict a police officer for abusing the system."

We note and commend Robert M. Morgenthau, the District Attorney of New York County and Mary Jo White, the United States Attorney for the Southern District of New York for undertaking a comprehensive review of convictions obtained as the result of testimony provided by police officers recently arrested for corrupt activities.

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Changing attitudes about police falsification depends largely on the Department. The Department's lack of concern for police falsifications was largely based on an attitude that

allowed police officers to even the odds in the fight against crime by letting the police get around legal rules that are perceived to work as protection for criminals rather than the law-abiding public. It is, of course, crucial that police officers and their supervisors have discretion and leeway in carrying out their jobs. But in a democracy, this leeway must be in concert with the law -- otherwise we have anarchy. What we found is that those bounds have too often been crossed, without penalty, in the past.

The consequences of this can be devastating. It can mean that defendants are unlawfully arrested and convicted, that inadmissible evidence is admitted at trial, and ultimately the public trust in even the most honest officer is eroded. This erosion of trust causes the public to disbelieve police testimony resulting in the guilty being set free after trial.

But, we are pleased to note, that the Department has begun to recognize these consequences and that change is occurring. The Commission's findings about police falsifications coupled with the evidence of this practice from recent corruption prosecutions have led the current Police Commissioner to begin to strengthen prevention and detection efforts in this area. This is an important factor in inculcating anti-corruption values into police culture. A crucial responsibility of both Internal Affairs and the independent oversight monitor we recommend, will be to insure that these efforts continue -- and that officers of all ranks within the Department are held accountable for telling the truth and upholding the law, regardless of their personal view of what is right or wrong.

## SECTION 5: POLICE VIOLENCE AND BRUTALITY

**“The [police officers] that are taking money will more typically be the ones that are giving beatings, yes.”**

**– Former Police Officer Michael Dowd  
Testimony Before The Mollen Commission  
September 27, 1993**

Police corruption investigations and studies rarely address police brutality. The Knapp Commission's extensive investigation into corruption in the 1970s, for example, does not address brutality. Nor do most of the reports issued by various Police Commissions investigating corruption throughout the century. This Commission initially intended to follow that traditional course. Our mandate was corruption; brutality is an entirely different subject we thought. The evidence changed our minds.

We found that corruption and brutality<sup>4</sup> are often linked in a variety of ways – and should no longer be artificially separated by police managers, corruption fighters, and policy-makers. We therefore concluded that any Commission investigating police corruption would be remiss in disregarding brutality. Brutality is an explosive and unpleasant topic. It seizes public and media attention even more powerfully than corruption. Over the years, the Department has focused some attention on alleviating the problem, but has made little effort to address the full scope of the problem of brutality and its tolerance. The Commission has concluded that this must change – as it appears is now happening. During the Commission's tenure, reforms from within the Department have begun. The new Police Commissioner has made the fight against “corruption and brutality” an important priority in his administration. It is essential that this commitment not wane.

We are not suggesting that the use of force is not vital to effective law enforcement – and to the lives of our police. Quite the opposite. Police officers could not carry out their dangerous duties without some resort to force – nor could they protect themselves and our communities without it. In this day and age, aggressive policing is crucial to fighting the war against drugs and crime. But there is a difference between aggressive policing and brutality. At times, it is essential that our police officers engage in aggressive policing and the use of necessary force. On the other hand, it is impermissible to step over the line to brutality, particularly when it is linked with corruption. It is that distinction which is sometimes ignored by officers on the streets, and their supervisors or commanders. We found that the use of force sometimes exceeds the necessities of aggressive policing – and the Department's response has been negligible.

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<sup>4</sup> Throughout this Report, we use the term brutality to include the implicit or explicit threat of physical harm or the actual infliction of physical injury or pain.

Police brutality seemed to occur, in varying degrees, wherever we uncovered corruption, particularly in crime-ridden, drug-infested precincts, often with large minority populations. The extent of the problem, however, is particularly difficult to quantify. Officers are often even more reluctant to report or discuss brutality than corruption perhaps because they view it as a reality of policing. In addition, the Department's intelligence and official records regarding incidents of brutality have been wholly inadequate in the past. We have brought these deficiencies to the Department's attention and reforms are underway. An important responsibility of the proposed outside independent monitor will be to insure the continued success of these reforms.

As with corruption, the motivations for brutality are complex and varied. Threats and violence are carried out in connection with corruption; but some also occur to administer an officer's own brand of vigilante justice; and some, it appears, are for no apparent reason at all. We found that all forms of brutality, however, have important consequences for corruption and corruption tolerance.

### **The Link Between Brutality and Acts of Corruption**

When connected to acts of corruption, brutality is at times a means to accomplish corrupt ends and at other times it is just a gratuitous appendage to a corrupt act. For example, in the 30th Precinct, former officer Alfonso Compres not only allegedly robbed a drug courier, but shot him in the stomach to steal his drugs. Another corrupt cop in the 73rd Precinct, accompanied by several other officers, shoved a gun in the mouth of a drug dealer and threatened to "blow his brains out" if he did not give them information about where and when drug money would be collected, and thus could be robbed. On another occasion, officers from that same precinct allegedly threatened to feed an individual to pit bulls if he did not give up information on a stash location that the officers wanted to rob. Former officer Michael Dowd did not just provide information to drug traffickers in the 75th Precinct for profit, he threatened competitors to insure that the drug "business" he protected operated smoothly. In other instances, cops have used or threatened to use brutality to intimidate their victims and protect themselves against the risk of complaints.

In sum, we found that cops did not simply become corrupt; they sometimes became corrupt and violent. Until now there has always been a distinction drawn between corruption and brutality. Corruption was about money; brutality was about unnecessary force and abuse of authority. That distinction has in some cases blurred. The corruption we found sometimes involved abuse of authority and unnecessary force, and the violence we found sometimes occurred to facilitate thefts of drugs and money. This is critical to recognize to effectively investigate corruption and brutality, and develop prevention and detection strategies. Until recently, those efforts typically have been dealt with separately both in the New York City Police Department and other police departments throughout the country. This should not continue.

There are other important links between corruption and brutality that we uncovered. First, we found that officers who are corrupt are more likely to be brutal – both in connection with carrying out acts of corruption and otherwise. It is unclear whether these cops were violent simply to facilitate their corruption, or if the same character traits and precinct conditions that tilt one toward corruption also tilt one toward violence. This can be further explored by the Department, academics or sociologists, but the point for our purposes is that such a link appears to exist – and should now be recognized in the fight against corruption and brutality.

This conclusion is based on several sources, both testimonial and empirical. Cops themselves have told us that corrupt cops appear to be more violent than others – even in situations unrelated to corruption. We also asked the Department to ask officers about this correlation in a recent focus group it conducted on the topic of brutality. Those officers too confirmed that based on their experiences, corrupt officers are more likely to be brutal.

Finally, to test this correlation the Commission conducted its own empirical analysis. We studied two hundred thirty-four problem officers that the Department had selected as the most likely to be corrupt, based on corruption allegations and comments from field commanders, and compared the number of excessive force allegations<sup>5</sup> against them with a general random sample of two hundred thirty-four officers from similar commands.

The data showed that the corruption-prone officers were more than five times as likely to have five or more unnecessary force allegations filed against them than the officers from the random sample group. This analysis was merely preliminary and follow-up studies should be done.<sup>6</sup> But again, the point is that corruption seemingly has a relationship with a penchant for brutality.

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<sup>5</sup> “Excessive force” allegations that we used included only: the actual use or threat of force to a person, or the actual destruction of property.

<sup>6</sup> For example, there is further data we would have liked to have used to make the test even more reliable, but such information was either unavailable or unreliable because of former deficiencies with the Department’s intelligence and investigative systems. For example, the corruption and force allegations we relied on included allegations that were closed as unsubstantiated (i.e., closed without enough evidence to establish guilt or innocence). This is because, in the past, so few serious corruption and brutality allegations have been substantiated annually, that the size of the sample would have been statistically inadequate. Allegations closed as “unfounded” or “exonerated” (i.e., officer was found not to have committed the act alleged) were, of course, not included in the analysis.

## **The Link Between Brutality And Police Culture**

Brutality does not always occur in connection with acts of corruption – but even brutality not motivated by corruption has important consequences for efforts to combat it. We found that brutality also occurred independently to show power, out of fear or hostility towards a person or the community that person represents, to vent frustrations and anger, or in a misplaced attempt to compel respect in the community. Officers also told us that it was not uncommon to see unnecessary force used to administer an officer's own brand of street justice: a nightstick in the ribs, a fist to the head, to demonstrate who was in charge of the crime-ridden streets they patrolled and to impose sanctions on those who “deserved it” as officers, not juries, determined. As was true of other forms of wrongdoing, some cops believe they are doing what is morally correct – though “technically unlawful” – when they beat someone who they believe is guilty and who they believe the criminal justice system will never punish.

We also found that some officers are violent simply for the sake of violence. These forms of violence also have important consequences for corruption. One officer from a Brooklyn North precinct told us how he and his colleagues once threw a bucket of ammonia in the face of an individual detained in a precinct holding pen. Another cooperating officer told us how he and his colleagues threw garbage and then boiling water on a person hiding from them in a dumbwaiter shaft. Cawley and his friends once sliced an escape rope hanging from a drug dealer's window so that anyone who used it would plunge to the ground. They also once raided a brothel in uniform, ordered the men to leave and the women to line up. The cops then picked their victims of choice, and proceeded to terrorize and rape them without compunction.

Understanding brutality in these contexts is critical to combatting corruption. It strengthens aspects of police culture and loyalty that foster and conceal corruption. For example, brutality, regardless of the motive, sometimes serves as a rite of passage to other forms of corruption and misconduct. Some officers told us that brutality was how they first crossed the line toward abandoning their integrity. Once the line was crossed without consequences, it was easier to abuse their authority in other ways, including corruption. Brutality is also used as a rite of initiation to prove that an officer is a tough or “good” cop, one who can be accepted and trusted by his fellow officers not to report wrongdoing. Dowd, like other officers, reported that brutality strengthened the bonds of loyalty and silence among officers and thus fostered corruption tolerance. “[Brutality] is a form of acceptance. It's not just simply giving a beating. It's the other officers begin to accept you more.” (Tr. 198)

Brutality also strains relations with the community because it is not always limited to those men and women who cops believe are criminals. Cawley and his fellow officers, for example, did not limit their brutality to dealers and purported criminals. Because in the



Bronx's 46th Precinct law-abiding individuals often live side-by-side with the criminal underworld, Cawley testified that the innocent were victimized as well:

Question: Did you beat people up who you arrested?

Answer: No. We'd just beat people in general. If they're on the street, hanging around drug locations. It was a show of force.

Question: Why were these beatings done?

Answer: To show who was in charge. We were in charge, the police. (Tr. 104-105)

On one occasion, Cawley and a group of his fellow officers decided to attack an apartment building, a known drug location, and beat everyone in sight. They descended upon the building swinging nightsticks and fists, simply to pass the night away. The beating spree spared no one there that night: the good, the bad, the young, the old. The victims were all perceived as one: they were the "them" in a world often defined as "Us vs. Them"; a world that far too often pits the police against the people they are sworn to serve. It is this attitude that allows cops to detach themselves from the public, and from the norms and customs that govern the "real world" from which they come. And it is this attitude that makes both brutality and corruption easier to commit and to tolerate.

Cawley's brutality does not represent the typical patterns of brutality we uncovered. Although officers from many precincts told us about brutality, his was more vicious, more frequent, and more premeditated than most. His actions represent the extreme end of police violence. But the point is, they do represent one end. And sometimes it is the extreme example that helps illuminate the complexity and seriousness of a problem. Such is the case here. For example, it is important to recognize that despite the extreme nature of his acts, Cawley – like most other violent and corrupt officers – did not act alone. A group of cops typically assisted him. Nor did he act in secret – as his nickname "the Mechanic" confirms.<sup>7</sup> Nonetheless, few, if any, cops ever reported Cawley. Despite his admission at our public hearings to hundreds of acts of open brutality spanning his career as a New York City police officer, only one allegation was ever filed against him for excessive force. And it was not from a police officer. Although Michael Dowd testified to participating in numerous acts of brutality, few force allegations were filed against him. None from fellow officers. This pattern was similar for most of the violent and corrupt officers this Commission learned about.

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<sup>7</sup> Cawley testified that he was given this nickname by his sergeant because he so openly and frequently "tuned people up" or beat them. This nickname was used throughout his career.

This speaks volumes about the complexity of the problem of police brutality. As important as the possible extent of brutality, is the extent of brutality tolerance we found throughout the Department. While the tolerance for brutality arises from the same set of police attitudes as the tolerance for corruption, there is an important difference. Unlike serious corruption, which most cops outwardly tolerate but inwardly deplore and resent, officers seem fairly tolerant – both outwardly and inwardly – of occasional police brutality. While most officers are genuinely sickened by the extreme brutality of Cawley, many do not seem to believe that anything is really wrong with a few blows and bruises now and then. Even officers who would never take a free cup of coffee, seem to tolerate what they believe is a little “street justice.” An excessive use of fists to face, nightsticks to ribs, and knees to groin are seen as the realities of policing.

What is most alarming is that this tolerance is not rationalized solely by purported legitimate law enforcement ends – like teaching a lesson, or giving the guilty what they “deserve.” This would be bad enough. But we found that the tolerance is also often based on a “cops are only human” rationale. If officers have to chase, wrestle or struggle with someone to effect an arrest, they become angry. It is hard to resist force in those circumstances, as we understandably have been told time and time again. Sometimes the justification is fear: if you don’t swing first often the suspect will. Police need to show who is boss in crime-ridden neighborhoods, is often the attitude. They view unnecessary force as a means to this end. The law is made by ivory tower legislators; law enforcement is achieved by those who know the streets we were told. It is for this reason that honest and corrupt officers alike have reported that the wall of silence is even stronger when it comes to brutality. Officers are unwilling to go out on a limb and report behavior that they believe, while unlawful, is fundamentally correct.

Officers are not the only ones who tolerate brutality. This tolerance, or willful blindness, extends to supervisors as well. This is because many supervisors share the perception that nothing is really wrong with a bit of unnecessary force and because they believe that this is the only way to fight crime today. As with corruption, we were told that supervisors sometimes turn a blind eye to evidence of unnecessary violence around them. When cops come to the stationhouse with a visibly beaten suspect, supervisors, we were repeatedly told, often do not question the story they hear. And the story, or “cover” as some put it, is fairly standard: resisting arrest. Because a complaint usually comes down to an officer’s word (and often the word of fellow officer witnesses) against the perpetrator’s word, it is easy for a supervisor to let clear acts of brutality slide by without recourse.

Such practices and attitudes should sound an alarm throughout the Department. They breed, protect and justify brutality on the streets of our City. They allow even the otherwise good cop to take occasional liberties without remorse or fear. And they fuel a police culture that not only alienates cops from the communities they serve – and vice-versa – but fosters and protects corruption. Brutality not only emboldens officers susceptible to brutality, but makes them feel invulnerable. They begin to believe they have free rein on

the streets. And that perception may not be far from the truth. Before the Commission's public hearings, few officers had ever been dismissed or even suspended on grounds of brutality in the recent past. Nor were supervisors or commanding officers typically sanctioned for brutality in their commands.

Brutality has important additional costs to our City. First, the City pays millions of dollars each year in damages to victims of brutality through settlements or after verdicts in civil trials. Second, when incidents of brutality come to light at criminal trial, it offends jurors and increases their mistrust of police testimony leading to acquittals that allow guilty criminals to go free.

The Department's past commanders are largely to blame for this state of affairs. While we recognize that the Civilian Complaint Review Board is responsible for investigating most brutality allegations, this does not excuse the Department from its responsibility for preventing and eradicating the use and acceptance of brutality among its members. In past years, the Department has refused to recognize brutality as a serious occupational hazard and failed to recognize its link to corruption. Integrity training inadequately addressed issues of brutality or brutality tolerance; intelligence-gathering efforts in the brutality area were negligible; discipline was lax; command accountability was rarely enforced in this area; and information on corruption and brutality was rarely analyzed together.

It appears that this is no longer the case. The current Police Commissioner and his Deputy Commissioner for Internal Affairs have now begun to focus on all of these areas during the tenure of this Commission. If the tolerance of brutality we observed is ever to change, it is crucial that these reform efforts remain constant and aggressive long after the recent spotlight on brutality disappears.

## **CHAPTER THREE**

### **POLICE CULTURE AND CORRUPTION**

**“We must create an atmosphere in which the dishonest officer fears the honest one, and not the other way around.”**

**-- Detective Frank Serpico,  
Testifying before the  
Knapp Commission, December 1971**

More than twenty years after Frank Serpico's testimony, this Commission found that the dishonest officers in the New York City Police Department still do not fear their honest colleagues. And for good reason. The vast majority of honest officers still protect the minority of corrupt officers through a code of silence few dare to break. The Knapp Commission predicted that the impact of their revelations would significantly weaken the characteristics of police culture that foster corruption. In particular, they hoped that their success in persuading a number of corrupt police officers to testify publicly about corruption would forever undermine the code of silence, the unwritten rule that an officer never incriminates a fellow officer. Unfortunately, their hope never became reality.

Police culture -- the attitudes and values that shape officers' behavior -- is a critical component of the problem of police corruption today. This Commission, therefore, was not satisfied simply to examine the types of police corruption we found to exist. The more difficult question we asked is why such corruption exists, what are the root causes and prevailing conditions that nurture and protect it, and how they can be effectively addressed. Only by examining the variety of influences and attitudes that contribute to corruption, can we assess and formulate strategies to stop it.

The code of silence and other attitudes of police officers that existed at the time of the Knapp Commission continue to nurture police corruption and impede efforts at corruption control. Scores of officers of every rank told the Commission that the code of silence pervades the Department and influences the vast majority of honest and corrupt officers alike. Although police officers who look the other way while colleagues steal property, sell drugs, or abuse citizens' civil rights may not be directly involved in corruption, they nonetheless support and perpetuate it by abandoning their professional obligations.

These aspects of police culture facilitate corruption primarily in two ways. First, they encourage corruption by setting a standard that nothing is more important than the unswerving loyalty of officers to one another -- not even stopping the most serious forms of corruption. This emboldens corrupt cops and those susceptible to corruption. Second, these attitudes thwart efforts to control corruption. They lead officers to protect or cover up for

others' crimes -- even crimes of which they heartily disapprove. They lead to officers flooding Department radio channels with warnings when Internal Affairs investigators appear at precincts, and refusing to provide information about serious corruption in their commands. Changing these aspects of police culture must be a central task if corruption controls are ever to succeed.

The realities of police work bolster these corruptive features of police culture. As a society, we expect more of police officers than any other public servants. We call upon them daily to accomplish a variety of competing responsibilities. We expect them to be daring crime fighters as well as patient mediators. We call upon them to stop crime in our neighborhoods, to resolve our domestic disputes, and to act as obedient members of a paramilitary organization. Most of all, we expect them to confront physical danger and risk their lives to protect our lives and property. After a time, particularly in high-crime areas, they begin to identify the criminals they must confront every day with the community they must serve. They begin to close ranks against what they perceive as a hostile environment. Consequently, many officers lose sight of the majority of law-abiding citizens who live in their precincts. When this happens, corruption becomes easier to commit and to tolerate.

Citizens often return this hostility. With crime, drugs, and guns rampant in parts of our City, the public incorrectly faults the police. When incidents of police corruption are disclosed, the community incorrectly assumes that this is the norm. When police officers interfere with citizens' activities, the public often resents it. Police officers feel this resentment. What the Knapp Commission observed in its time is just as applicable today:

Nobody, whether a burglar or a Sunday motorist, likes to have his activities interfered with. As a result most citizens, at one time or another, regard the police with varying degrees of hostility. The policeman feels, and naturally often returns, the hostility.<sup>8</sup>

Faced with this resentment, the dangers of their work, and their dependence on other officers for their mutual safety, police officers naturally band together. Often to such a degree that officers become isolated from the outside world. They socialize with and depend upon fellow officers not only on the job, but off. An intense group loyalty, fostered by shared experiences and the need to rely on each other in times of crisis, emerges as a predominant ethic of police culture.

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<sup>8</sup> City of New York, Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures, *Commission Report* (New York: December 26, 1972), p. 6.

This loyalty ethic itself is not corruptive. Loyalty and trust are vital attributes that promote effective and safe policing. We cannot ask police officers to abandon their loyalty to each other while simultaneously demanding that they confront danger for us.

But group loyalty often flourishes at the expense of an officer's sworn duty. It makes allegiance to fellow officers -- even corrupt ones -- more important than allegiance to the Department and the community. When this happens, loyalty itself becomes corrupt and erects the strongest barriers to corruption control: the code of silence and the "Us vs. Them" mentality.

### **The Code of Silence**

The pervasiveness of the code of silence is itself alarming. But what we found particularly troubling is that it often appears to be strongest where corruption is most frequent. This is because the loyalty ethic is particularly powerful in crime-ridden precincts where officers most depend upon each other for their safety each day -- and where fear and alienation from the community are most rampant. Thus, the code of silence influences honest officers in the very precincts where their assistance is needed most.

The pervasiveness of the code of silence is bolstered by the grave consequences for violating it: Officers who report misconduct are ostracized and harassed; become targets of complaints and even physical threats; and are made to fear that they will be left alone on the streets in a time of crisis. This draconian enforcement of the code of silence fuels corruption because it makes corrupt cops feel protected and invulnerable. As former police officer Bernard Cawley testified at the public hearings:

Question: Were you ever afraid that one of your fellow officers might turn you in?

Answer: Never.

Question: Why not?

Answer: Because it was the Blue Wall of Silence. Cops don't tell on cops. And if they did tell on them, just say if a cop decided to tell on me, his career's ruined. He's going to be labeled as a rat. So if he's got fifteen more years to go on the job, he's going to be miserable because it follows you wherever you go. And he could be in a precinct, he's going to have nobody to work with. And

chances are if it comes down to it, they're going to let him get hurt. (Tr. 138)

In his public hearing testimony, another corrupt officer, Kevin Hembury, concurred:

If you're labeled a rat, especially early in your career, you're going to have a difficult time for the remainder of your career in the New York City Police Department. You do not want to be labeled a rat. You will be the recipient of bad practical jokes, even things more serious than practical jokes. Then, to leave or request to leave the environment that you were in, wouldn't be the end of this labeling that you had. Phone calls would be made to wherever your final destination was in the Department. Your name traveled with you. It was something you couldn't shake. (Tr. 87)

Dozens of honest officers similarly told the Commission about their fears of breaking the code of silence. Lieutenant Robert McKenna, a highly decorated Lieutenant with twenty years experience in the Department, testified about this view at our public hearings:

Question: What is the consequence of breaking this silence?

McKenna: The cops are ostracized at times. They're held away. They're pushed off to one side. They're kept away from the rest of the group. I could almost say it'd be like the effects of a divorce. You're separated from your family. You're alone over here. Your family, the cops, are over there. (Tr. 80)

The Commission interviewed a number of officers who suffered the penalties of being labeled a rat. Their names will be withheld for obvious reasons. A captain we interviewed spent thirteen years as a police supervisor, a Field Internal Affairs Unit investigator, and a duty captain, or "shoefly," in Brooklyn. He was a stern disciplinarian who often disciplined his subordinates for misconduct and reported allegations of corruption to Internal Affairs. During the course of his career, he was assigned to thirty-eight different commands throughout the City. In almost every case, on the very day he arrived to report for duty at his new command, he found evidence that his reputation had preceded him. At one command, his locker was burned; at another, his car tires were slashed; at another, he received threats of physical harm.

In another case, a detective who served in Internal Affairs was transferred to a precinct detective squad. In his first week, his new colleagues made sure he knew that he

would be alone on the street. They placed dead rats on his car windshield, stole or destroyed his personal property, and told him directly that he could not count on them in times of danger. The constant harassment eventually led the detective to seek psychological counseling and restricted duty.

The inculcation of police culture begins early in police officers' careers, as early as the Police Academy. Police Officer "Otto," an officer assigned to a high-crime precinct who agreed to testify publicly before the Commission only in disguise because of the code of silence, told us that he learned about the code of silence while he was still a recruit at the Police Academy:

Question: How do police officers learn about this wall or code of silence?

Otto: It starts in the Police Academy, and it just develops from there. . . . It starts with the instructors telling you never to be a rat, never give up your fellow officer. It starts with other recruits telling you they'll never give you up, and it just goes on down the line as you go through N.S.U. [Neighborhood Stabilization Units] and into a precinct. (Tr. 14)

And, while still recruits, police officers learn the harsh lessons of violating the code of silence. One former recruit told us that while in training at the Academy, she made a complaint to Internal Affairs about the lewd remarks an Academy instructor constantly made to her and other women recruits. Despite assurances of confidentiality, Internal Affairs informed Academy supervisors of her complaint. Within days, she was ostracized by her fellow recruits (even those who had been her friends) and Academy personnel. Her isolation was made so complete that she was forced to finish her Academy training on her own. When she graduated, the Department assigned her to Internal Affairs because it was unlikely she would be accepted anywhere else in the Department. Her dream to become a cop became a nightmare because she made a single complaint about a fellow cop. Within a year, she resigned from the Department.

The fear of violating the code of silence can even lead an officer to accept the blame and punishment for the acts of a fellow officer. Hembury testified to an incident when, still a rookie, he and a partner stopped a motorcycle for a number of traffic violations. Because the driver became irate, Hembury's partner thought he would teach him a lesson by removing a spark plug coil to disable the engine. Eventually charges for damaging the motorcycle were wrongly brought against Hembury, not his partner. But the code of silence compelled Hembury to accept the punishment -- a loss of fifteen vacation days -- for



something he did not do. Hembury knew that the punishment for breaking his silence would be far worse than the punishment for police misconduct:

Hembury: . . . And the spark plug I had nothing to do with.  
But yet these charges were brought against me.  
I took the hit [punishment], lost my fifteen days,  
and that was the end of it.

Question: So you took a fifteen day hit all because you just  
could not be labeled a rat and tell the truth  
about who was really responsible for damaging  
the motorcycle?

Hembury: That's correct. (Tr. 89)

There is a tragic irony to the code of silence which provides both the greatest challenge -- and hope -- in combatting corruption. Although most honest cops will not report serious corruption, they despise corrupt cops and silently hope that they will be removed from the ranks. Recently, the Internal Affairs Bureau's Corruption Prevention and Analysis Unit shared with the Commission the results of a series of enlightening discussions conducted with groups of police officers about their perception of police values and corruption. Remarkably, although patrol officers openly expressed disgust over corruption and hoped corrupt officers would be fired, they nonetheless are highly reluctant to report corruption, even if it involves drugs and weapons. The Internal Affairs report states:

Extremely serious allegations including drugs and weapons were not viewed differently by most of the participants. Members were consistent in their reluctance to officially report these transgressions. Officers were of the opinion that the discovery and the official reporting of criminal allegations and serious misconduct would not elevate them in the eyes of their peers. These officers believed they would be perceived as 'rats,' not to be trusted. The consensus was that if an individual reported serious matters they would likely report minor infractions as well. The fear of being labeled a 'rat' and subsequently divorced from police culture has a seemingly powerful, negative impact on reporting corruption. This reveals a whole new dimension to the code of silence: it does not always reflect solely tolerance for corruption or a misplaced group loyalty. In many instances it is motivated purely by self-interest and self-protection: a fear of the consequence of breaking the norms of loyalty and silence.

Thus the most devastating consequence of the code of silence is that it prevents the vast majority of honest officers from doing what they inwardly want to do: help keep their Department corruption free. It is not surprising that the honest cop wants corrupt cops off the job. The consequences of corruption for honest cops are grave: it taints their reputations, destroys their morale, and, most important, jeopardizes their very safety.

What is surprising is that despite these devastating consequences, honest cops refuse to help eliminate corrupt cops from their Department, even though they are the principal victims of police corruption. Again, Police Officer Otto, like scores of his colleagues, made this point clear:

Question: What is the impact of corruption on honest cops?

Otto: It hurts them. It disheartens them. It makes them not want to work.

Question: Do you believe that it endangers their safety on the street?

Otto: Well, put it this way. I wouldn't want to run across a drug dealer who's been ripped off one time too many.

Despite corruption's threat to their safety and their genuine desire to work in a corruption-free Department, officers view reporting corruption as an offense more heinous and dangerous than the corruption itself.

Honest officers who know about or suspect corruption among their colleagues, therefore, face an exasperating dilemma. They perceive that they must either turn a blind eye to the corruption they deplore, or risk the dreadful consequences of reporting it. The Commission's inquiries reveal that the overwhelming majority of officers choose to live with the corruption.

And they have not been reluctant to admit this to the Commission. Indeed, the facts bear out what officers have been telling us for the past twenty-two months: despite years of open and frequent corruption by officers like Michael Dowd, Bernard Cawley and others, virtually none of their colleagues or supervisors reported this corruption to Internal Affairs.

If the Department ever hopes to make lasting improvements in corruption control, it must do something it has failed to do in recent history: acknowledge that the code of silence exists and take steps to overcome it. It must rescue its members from the grip of their self-created predicament. From first-line supervisors to Internal Affairs, it must provide constant support and recognition to officers who, by reporting corruption, choose

to do what is right rather than what their culture expects of them. The Police Commissioner must make it clear that those who expose corruption will be rewarded, and those who help conceal it punished.

Finally, the Department must provide the same confidentiality protections to officers who report other officers, as it does to civilians who provide information about criminals. There is a widespread perception among officers that this is not the case. Many officers told us that they would not report corruption because the Department does not provide the same basic protections to officers as it does to civilians assisting the Department. This communicates a powerful message: that the Department is not really interested in enlisting the police in the fight against corruption. Until this changes, no reforms will ever change the attitudes that underlie the code of silence.

### **“Us vs. Them”**

The code of the “blue fraternity” extends beyond the “blue” and into the communities they police. The loyalty ethic and insularity that breed the code of silence that protects officers from other officers also erects protective barriers between the police and the public. Far too many officers see the public as a source of trouble rather than as the people they are sworn to serve. Particularly in precincts overtaken with crime, officers sometimes view the public as the “enemy.” Officer Otto explained:

Question: Is there an attitude prevalent among police officers that . . . protects them against other people who might report corruption on their part?

Otto: Yes. It's an ‘Us vs. Them’ mentality. See, we're all blue, and that we're in this together and we have to protect each other no matter what.

Question: And I suppose what you're saying is the police officers are the ‘us,’ and who is the ‘them’?

Otto: Everybody else.

While the “Us vs. Them” mentality is most powerful in crime-ridden precincts, often with large minority populations, it is not confined to these precincts. We found that this attitude exists, in varying degrees, in many precincts in the City – and begins to develop early in an officer's career. The Commission's inquiries show that, like the code of silence, the “Us vs. Them” mentality starts when impressionable recruits and rookies are led to believe by veteran officers that the ordinary citizen fails to appreciate the police and that

their safety depends solely on their fellow officers. Officers learn early on that they must protect themselves from the public. This includes always having an excuse ready for citizens' complaints:

Question: Did you learn anything right at the Academy about the attitude or mentality of being a police officer?

Dowd: Well, yeah. Certain things you do pick up, and I guess you would say it was an 'Us against Them' theme. . . . [T]hat was one of the terms used in the Academy, 'CYA,' – I'm sorry – was the way they phrased it. In other words, have an answer for any situation you come across; and, if you have an answer, it always helps to have another police officer there to back it up. . . .

Question: Who imparted this message to you, Mr. Dowd?

Dowd: Our instructors. (Tr. 32)

This attitude is powerfully reinforced on the job when recruits become full-fledged officers and interact with the public every day. It creates strong pressures on police officers to ally themselves with fellow officers, even corrupt ones, rather than reaching out to the public to create supportive and productive relationships with the communities they serve. In his public testimony, Cawley gave an example of how the "Us vs. Them" mentality works in a real-life situation. He explained, in his experience, the treatment a civilian would receive at the precinct if he attempted to report an officer's brutality:

He [the Desk Officer] would give [the complainant] the paperwork to fill out. Then they'd ask him for a pen. He'd tell you listen there's a bodega across the street, go there and buy it. I'm not helping you. Then if they needed any help with [the complaint form], he wouldn't help them. Then if the person went through all the aggravation to fill out the complaint report . . . they'd tell you, 'Listen, we have to get it typed now. There's a waiting line for the typing. It's going to be about three hours, so sit right there and wait.' Half the time people would say, 'Three hours, you got to be crazy', and they would leave. As soon as they left, he'd crumple it up and throw it right in the garbage. (Tr. 130)

We also found that the "Us vs. Them" mentality is not directed solely to members of the public. So strong are the bonds that unite officers that even other members of the Department who threaten the well-being of a fellow officer are viewed with distrust and disdain. This is one reason why Internal Affairs officers are viewed as the enemy, "unfriendlies" as they are sometimes called, who patrol precincts only to bring charges of misconduct against hard-working officers. Many officers told us that corrupt and honest officers alike attempt to thwart Internal Affairs' efforts by broadcasting their presence in their precincts, and by refusing to cooperate with its investigations.

The Commission found the code of silence and the "Us vs. Them" mentality present wherever we found corruption. This helps explain how groups of corrupt officers can openly engage in corruption for long periods of time with impunity.

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Most discussions of police culture end here. But police culture is not the only corrupting influence in a contemporary police officer's life. The pressures and influences of police work, social and political demands, as well as some of the Department's own management policies also threaten the integrity of our police by perverting their fundamental values, increasing their cynicism, and causing disillusionment about the Department's real commitment to integrity.

### **The Erosion Of Values And Pride**

Each day, New York City police officers must face the challenge of criminals, the pain of their victims, and the lure of drugs and money. Corruption is a daily threat to veteran and inexperienced officers alike. And with good reason. Today, thousands of officers face the most menacing and prolific form of corruption police officers have ever had to face: the drug trade. In precincts around the City, drug trafficking generates vast amounts of money that can be easily stolen and just as easily offered by drug dealers. Drug money is everywhere. Officers stop cars with trunkloads of cash, search apartments with closets stacked with money, and meet drug dealers who will gladly pay them thousands of dollars just to be left alone. Because many drug dealers are illegal immigrants or individuals with criminal histories, they are unlikely to complain if a police officer takes their money. When the wages of corruption are so incredibly lucrative and relatively safe, the appeal of corruption is proportionately more alluring.

Regular exposure to these and other conditions can erode the values, principles and loyalties of even initially honest and dedicated cops. Stealing money, falsifying arrest papers, protecting corrupt colleagues begins to seem less wrong, and risky. The Department has provided little pressure or support to counter these conditions in the past. Indeed, its management practices have often fueled an officer's susceptibility to corruption.

Officers' career paths, or lack of one, for example, have much to do with the pride and loyalty they give to the Department, and thus their ability to resist corruption. Officers who feel they have nowhere to go in the Department may also feel they have nothing to lose by stepping outside the law – especially when there is a seeming fortune to be gained on the other side.

In many interviews, officers repeated their belief that the Department neglects to support and acknowledge them in performing their difficult and dangerous jobs. This sense of abandonment undermines officers' ability to face the challenges to integrity they face on the streets. Concern for abandonment appears worst in precincts where high crime, the rampant drug trade, and unbridled violence place officers in a position of unrelieved exposure to the temptations of corruption and brutality; and where the constant onslaught of crime makes many lose hope in their abilities to fight crime within the limits of the law. It is precisely in these high-crime precincts where temptations and frustrations are greatest, that officers most strongly believe that the Department cares little for their plight, let alone their careers.

This perception has some basis. Transfers out of these "dumping ground" precincts are difficult. Officers know that they have years ahead of them under these conditions. One way to cope, we were told, is simply to give in; to succumb to the temptations of money and drugs that surround them.

It is no coincidence, therefore, that the most notorious police corruption cases in recent years arose in the crime-infested precincts of the Brooklyn North and Manhattan North Patrol Boroughs. We recognize, of course, that it is in these precincts where the opportunities for corruption most abound. But this only explains part of the problem.

There is a widespread perception in the Department that Brooklyn North, like other crime-ridden precincts, was used as a "dumping ground" for misfit, incompetent, and undisciplined officers, many with past corruption histories. What is worse, these crime-ridden neighborhoods, where the opportunities for corruption are most plentiful, are where the need for effective policing is most urgent. It is precisely where problem, corruption-prone cops should not be placed – and where effective, proven officers should be.

Through discussion groups, the Department has recently discovered that this combination of factors creates in officers a perverted pride in their bad reputation causing them to act it out in uniform. A recent Department report states:

One group [of police officers] in particular [. . . from Brooklyn North] believed that their Patrol Borough is considered a 'dumping ground' within the agency. They stated that they are regarded by officers from other Boroughs, as well as by the Department's executive cadre, as a collection of misfits,

incompetents, malingerers, and undesirables inhabiting a series of 'shithouses.' This perception coexists with, and perhaps has created, a strong group identity marked by an undercurrent of perverse pride in their deviant status. Subtle evidence also emerged that at times these officers act out their deviant status for the benefit of other officers, often in a bid to demonstrate affinity for the group identity.

In the Commission's view, this dangerous self-perception is likely to exist among officers not only in Brooklyn North, but wherever the same conditions prevail and wherever the Department leaves such officers without effective supervision and support.

The magnitude of this problem was made particularly clear through the testimony of Kevin Hembury. Like so many other police recruits, Hembury joined the Department with all the right qualifications and all the right intentions. His first permanent assignment was to Brooklyn North's 73rd Precinct, a neighborhood overrun by drug dealing and violent crime. Within two years of patrolling that precinct, his world had ceased being the world of the thousands of honest police on the streets of New York, and had become a world of "scores" and "raids" – stealing drugs, money, and guns, and conducting warrantless assaults on drug locations for personal profit.

Hembury's corruption is, of course, the result of his own bad judgment. But the lesson the Department must take from Hembury's experience is that constant, unrelieved exposure to the opportunities and temptations of corruption spawned in neighborhoods rife with drug dealing and violence may infect and destroy even the initially good cop, not just the "rotten apples." Even an officer with pride in the Department and in being an honest cop might eventually succumb to the constant nurture of a criminal environment. What made matters worse for Hembury and other officers like him was their belief that the Department had abandoned them to the criminal sub-culture that beset them everyday. In such a precinct, an officer who feels that the Department fails to care is more likely to relinquish loyalty to the Department and become corrupt, so at least his all-too-human greed can be satisfied. In Hembury's case, he made five applications for transfer out of the 73rd Precinct. Ironically, the Department finally granted his request on May 6, 1992 – the day of his arrest.

We are, of course, making no excuses for corrupt cops. No one is to blame for their corruption but themselves. Indeed, even in the worst precincts, most cops resisted the temptations of crime. But there is an important lesson to be learned from the evidence: most corrupt cops do not join the Department to become criminals or to line their pockets with cash. The conditions they confront on the job change this view; and change their basic attitudes and principles. This is a problem not only for the corrupt cop, but for the entire Department. The Department must necessarily share the blame for this situation. It failed to take the necessary actions to keep its honest cops honest, through effective supervision,

training, deterrence, personnel management and other means. It must not fail to do so in the future.

### **Police Cynicism**

Even when faced with the powerful and frequent temptations of corruption, we rightly demand that police officers enforce the law without violating it. But the Department and society at large must acknowledge the obligation to support those who want to perform their duties honestly. In the average police officer's view, that is an obligation that is often not met. Those failures make officers cynical and, therefore, more prone to crossing the line toward corruption. We observed a good deal of cynicism among many police officers we interviewed, especially among those officers who succumbed to corruption.

For most of these officers, the reasons for their cynicism arise from the jarring contrast between what the Department and society say they want from police, and the experiences they have as police officers every day. For those officers who turned to corruption, their cynicism provides a rationalization for their corrupt activities; for those officers who remain honest, it supplies a reason to remain silent. For the police officer immersed daily in a criminal sub-culture, crime is not a political issue, it is an every day reality.

While the Department's commanders, government officials, and community groups urge police officers to be aggressive crime fighters, officers often believe that the criminal justice system is too soft on criminal behavior. Because of evidentiary rules and prison overcrowding, defendants, who officers risk their safety to apprehend, are frequently released from custody and put back on the streets within days. They see their authority being undermined and society's demand for law and order as a sham when the drug dealer they arrested on Monday is back on his street corner on Wednesday. They come to believe that true justice can only be served by their nightsticks or by insuring that the drug dealer will never enjoy his profit after they have taken it for themselves. Even officers who never resort to force or theft will close the gap between the requirements of the law and the demands of reality by falsifying the basis for arrests or searches to insure that the charges stick in what they see as the unrealistic rules of the courtroom. Simply put, they believe that integrity often makes them the only fools in a hypocritical system.

Another cause of cynicism is officers' views of Departmental policies and practices. Many officers we interviewed believe that the Department suffers from a large measure of hypocrisy. They believe that the Department's commitment to integrity is more rhetoric than reality. They also believe the Department is more responsive to political influence and media pressure than the needs and attitudes of its own officers. When officers view themselves and their superiors as political pawns rather than impartial officers of the law, they resent it and question the integrity and motivations of the very Department whose



uniform they wear. Regardless of the truth of the perception, the point is such impressions are widespread and have a corrosive impact on morale, character, and integrity.

Officers' cynicism about the Department's commitment to corruption control is justified. As testimony at the Commission's public and private hearings made clear, supervising officers tip off subordinates about pending investigations or citizen complaints. On some occasions, desk officers reminded officers to add resisting arrest charges for suspects brought to the stationhouse with too many visible bruises. Obviously, a corrupt officer who sees his superiors condone his wrongdoing necessarily takes the message that being caught in the wrong is worse than doing the wrong itself. Officer Otto testified that although his commanding officer knew about corruption in his precinct, his only message to his officers was not to get caught:

I remember on one occasion, the Commanding Officer gave a speech at roll call. He stated that some of you may have problems that are so bad that you feel you have to do certain things in order to survive. And if that's the case, then do what you have to do. But if you ever get caught, don't say anything. . . . His message was that it was all right to steal as long as you felt that you could do it and get away with it. . . .

Obviously, after hearing a speech like that from a precinct commander, even the most ardent calls for integrity from a Police Commissioner will fall on deaf ears.

Favoritism is another source of officers' cynicism about the Department's commitment to integrity. Whether rightly or wrongly, many patrol officers believe that merit and seniority have much less to do with career advancement than the proverbial "hook." According to large numbers of officers, it is not what you know or how well you do, but who you know that determines advancement within the Department. Even worse, many police officers believe that for the favored "boss," the same rules of integrity do not apply. In their view, while the Department will quickly penalize street cops for minor infractions, it protects favored commanders from their own incompetence and indiscretions.

There seems to be some truth to this perception. In the past, commanders have rarely been held accountable for corruption on their watch, and some have even been promoted despite poor performances in this area. Patrol officers told us they see hard-working officers trying to scrape together a living while chiefs retire with tax-free disability pensions for ancient injuries.

Officers' cynicism toward the Department fuels the worst aspects of police culture. It further makes officers' bonds of loyalty to fellow officers, honest and corrupt alike, greater than their loyalty to the Department, and often the law.

The Department can do much to strengthen the resolve of each officer to resist the opportunity and tolerance for corruption by attacking the deep-seated cynicism too many officers feel about the Department and replacing it with an abiding respect for their Department. To do that, the Department must convince its officers that it is ready to enter a new and inviolable pact with them: unremitting support, guidance, rewards, and incentives in exchange for their professionalism and pride in a Department that is renown for its skills and integrity.

### **Moral Character and Fitness**

Over the last ten years, rising crime and rampant fear in our communities have created a demand to place large numbers of new police officers on the streets of New York as quickly as they could be recruited and graduated from the Academy. In the 1980s, the Department graduated recruit classes numbering in the thousands. This year alone, four thousand new officers will hit the streets by summer's end. Of course, the grip of crime gives the public and public officials every reason to enlist more officers for our City. But we cannot overlook the consequences.

The moral character of an individual recruit has a great deal to do with the course of a police career and the ability to resist the erosion of values and the cynicism that come with police work. Family upbringing, education, and community values shape the character of any individual. And, as in any other walk of life, the character and integrity of our police officers will reflect the moral climate of our society. Despite this, our analysis of the Department's recruitment and screening practices revealed that the Department often does not complete recruits' background checks before they become fully-fledged police officers.

The Department thus puts scores of new officers on the streets of New York each year before determining whether they have the moral values and psychological stamina necessary to meet the demands and temptations that police officers confront each day. Overwhelmingly, officers interviewed by the Commission believe that the Department's recruitment and hiring standards have declined. They believe that many people with questionable backgrounds and character are allowed to become their fellow officers because of political pressures to hire more and more police. They believe this practice dilutes the quality of their profession and leads to corruption. Our analysis reveals that this may not be far from the truth. Of over four-hundred officers that were dismissed or suspended for corruption over the past five years, we found that a large number of them should never have been admitted to the Department – based solely on information in the officer's personnel file at the time of application. These issues are discussed in detail in Chapter Five.

Most new officers, moreover, assume the responsibilities and power of a police officer before they reach the age of twenty-three. For some of them, the power that comes with the gun and the badge makes them view police work as a series of thrills and electric

moments of danger rather than as steady and responsible service to the citizenry. Currently, 31 percent of the police force has five years or less experience; with the addition of four thousand new officers this year, the figure will climb to nearly 42 percent. Untested by life's experiences and striving to provide financial security for themselves and their families, the appeal of corruption and its easy profits can understandably make young, inexperienced police officers ignore their duty. It also makes them particularly susceptible to the most corruptive aspects of police culture. The Department must recognize the new demographics of its present-day members and take every step to insure that impressionable young officers are not indefinitely abandoned to the pressures of police work that make corruption the easy choice.

### **Police Unions**

Police unions and fraternal organizations can do much to increase the pride and professionalism of our police officers. They also can do much to help change the corruptive features of police culture and to reorient the attitudes of their members to nurture mutual respect between society at large and police officers. Unfortunately, based on our own observations and on information received from prosecutors, corruption investigators, and high-ranking police officials, police unions sometimes fuel the insularity that characterizes police culture.

At the outset, we were disappointed at the negative reaction that some police unions had toward the Commission's work. Instead of seeing the Commission as a possible vehicle for reform for the benefit of their members, some unions automatically saw it as a threat and a device of partisan politics. For example, only a month after the Commission began its inquiries, the Captains Benevolent Association ("C.B.A.") initiated a lawsuit to dissolve the Commission and thereby thwart the Commission's investigation into police corruption. While the C.B.A. and its officers are entitled to their opinions, the Commission thought it unfortunate that a police union representing high-ranking members of the Department would attack a Commission whose mission was to investigate police corruption and to recommend means to combat it. The unfortunate result of such action is first to create a negative attitude on the part of its members toward fighting corruption within the Department and at the same time to reinforce the public's cynicism about the members of the Police Department and the officers' sense of insularity against the public. This is particularly egregious coming from the union representing the highest-ranking members of the Department. By contrast, we invited and met with many high-ranking officers of the Department who expressed great concern over the issue of corruption and their readiness to assist in formulating lasting solutions to the problem.

During the course of our work, we held discussions with officers of the Detectives Endowment Association, the Sergeants Benevolent Association, and the Lieutenants Benevolent Association to gain their insights into the issue of corruption and corruption

control.<sup>9</sup> Invariably, they all denounced corruption as a grave threat to the reputation and safety of their members.

Nonetheless, in the course of corruption investigations and Departmental administrative proceedings, police unions suffer from a conflict of interest between protecting the interests of the individual officer and promoting the larger interests of their members. Consequently, according to Department managers and prosecutors, police unions help perpetuate the characteristics of police culture that protect corrupt officers.

In particular, past and current prosecutors and Department officials told us in informal interviews that P.B.A. delegates and attorneys help reinforce the code of silence among officers who have committed or witnessed corrupt acts. According to these sources, P.B.A. attorneys often represent both targets and witnesses involved in the same corruption probes. This irreconcilable conflict of interest results in counseling their members against cooperating with corruption investigations. Of course, their advice against cooperation is automatically enforced since the same P.B.A. attorneys and delegates represent all the witnesses and targets of an investigation. Any officer who breaks ranks from this common representation is immediately known to be a cooperator. This not only impedes but, at times, imperils the progress of an investigation and may lead to stigmatizing the officer who decides to cooperate with investigators.

Of course, P.B.A. representatives must represent their members zealously. But what the P.B.A. has failed to understand in such circumstances is that its own conflict of interest does great disservice to the vast majority of its members who would be happy to see corrupt cops prosecuted for their crimes and removed from the job. Thus, by advising its members against cooperating with law enforcement authorities, the P.B.A. often acts as a shelter for and protector of the corrupt cop rather than as a guardian of the interests of the vast majority of its membership, who are honest police officers. Furthermore, the multiplicity of representation may result in the P.B.A. representative providing advice and guidance which is against the best interest of individual officers as well against the best interest of membership as a whole.

During the course of the Commission's tenure, we have observed or received information about events illustrating the wrongheaded message sometimes delivered by P.B.A. representatives. In March 1994, for example, as a result of a joint investigation with the Commission and the Brooklyn District Attorney's Office, the United States Attorney for the Eastern District charged three officers of Brownsville's 73rd Precinct with extortion, conspiracy, and civil rights violations based on a series of unlawful searches and seizures and thefts of drugs, guns, and money. P.B.A. officials immediately denounced the arrests. In particular, one P.B.A. officer denigrated the reliability of the former police officers (all of

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<sup>9</sup> Of all the unions, the Patrolmen's Benevolent Association and the Captains Endowment Association declined our invitation to participate in discussions.

whom were themselves members of the P.B.A.) who decided to cooperate with federal authorities, and claimed that the prosecution was orchestrated simply to justify the existence of this Commission. He described federal investigators' attempts to have the arrested officers cooperate with the investigation as "Nazi tactics." The P.B.A.'s goal should be to encourage the removal of corrupt officers rather than engaging in rhetoric designed to protect them. To the average police officer, the P.B.A.'s message was clear: the world is out to get cops so cops have to protect themselves against the world. Thus, cynicism and divisiveness grow and prosper. This serves no legitimate union interest, and certainly not the interests of its members.

The Commission received information, moreover, that certain P.B.A. delegates have attempted to thwart police corruption investigations. In one instance, according to a prosecutor, P.B.A. officials frustrated plans to use a cooperating police officer in an investigation into drug-related corruption. These P.B.A. officials had a police officer review the records of room rentals in the hotel used to debrief the cooperating officer to ascertain his identity and to verify his secret cooperation with the Bronx District Attorney. When the officer found receipts for a room rented to an official of the District Attorney's Office, it became widely known that the officer had agreed to cooperate, rendering him useless to the investigation.

In another instance, Commission investigators received information that a P.B.A. delegate warned officers in a neighboring precinct that two defendants made narcotics corruption allegations against them. The delegate not only tipped off the officers about the allegation but agreed to show them photographs of the complainants.

Police unions and fraternal organizations are powerful organizations that wield great influence among their members and in the halls of our legislative chambers. Their authority brings the obligation to educate their members about the dangers of dishonesty and corruption. In promoting and furthering their members' interest, we strongly urge police unions to join in partnership with the Department's leadership in effectively fighting corruption. With an unequivocal voice, police unions must encourage their members to report corruption and cooperate with the Department and other law enforcement agencies when it comes time to prosecute, so long as their legitimate interests and their rights are protected. If they do so, they will do much to flatten the highest barrier that exists between corruption and its most promising solution: the honest cop.

### **Conclusion**

The code of silence and the "Us vs. Them" mentality were present wherever we found corruption. These characteristics of police culture help explain how bands of corrupt officers can openly engage in corruption over long periods of time with impunity. To achieve lasting success against police corruption, the Department must insure that its

systems of corruption control strike at the root causes and conditions of corruption and not just its symptoms. To do that, the Department must transform police culture and redirect its power against concealing and perpetuating corruption. It must create a culture that demands integrity and works to insure it; an atmosphere in which dishonest cops fear the honest ones, and not the other way around -- as Detective Frank Serpico warned twenty years ago. Without it, no system of corruption control is likely to succeed. The Commission believes that such change is possible. It believes such possibility is enhanced by an independent commission trusted by all concerned.

## **CHAPTER FOUR**

### **THE COLLAPSE OF THE DEPARTMENT'S CORRUPTION CONTROLS**

**"All parts of the Department's corruption systems had been functioning terribly for years . . . top commanders in and outside of Internal Affairs didn't seem too concerned about that however because it guaranteed no bad headlines . . . but when they heard an independent monitoring Commission was being set up to see how they were doing in the corruption area, things started quickly changing. . . ."**

**– IAD Supervisor  
Private Interview with Commission Staff  
September 23, 1993**

To fulfill our mandate to investigate the quality of the Department's corruption controls, the Commission made numerous requests for documents and information that set forth the Department's anti-corruption practices and performance over the past decade. We were astounded to learn that -- unlike other commands in the Department -- virtually no information on the overall performance of the anti-corruption systems existed, and the little that did was largely inaccurate. We then subpoenaed officers of all ranks who were assigned to and supervised portions of the Department's anti-corruption apparatus. We were again astounded to learn that many did not know how certain anti-corruption systems were supposed to work or how certain programs and units, many established during the Knapp Commission era, were functioning today.

The Commission therefore started from scratch in investigating and auditing what should have been the principal components of the Department's anti-corruption systems. These include: (i) command accountability and supervision; (ii) internal investigations and intelligence gathering; (iii) recruitment and screening; (iv) training; and (v) the police attitudes and culture that nurture and protect corruption. This had never been done before because -- unlike other City agencies -- the Department had been allowed to police itself alone, with no independent oversight to insure it was doing its job well.

Our investigation found a system that had virtually collapsed years ago -- and that was more likely to minimize or conceal corruption than uncover and uproot it. We found that the New York City Police Department had largely abandoned its responsibility to police itself and had failed to create a culture dedicated to rooting out corruption.

The reason for this collapse can be summarized in a few words: a deep-seated institutional reluctance to uncover serious corruption with no independent external pressure to counter it. From the top brass down, there was an often debilitating fear about police corruption disclosures because it was perceived as an embarrassment to the Department, and likely to engender a loss of public confidence. From the top brass down, there was a widespread belief that uncovering serious corruption would harm careers and the Department's reputation. As a result, avoiding bad headlines, and tolerating corruption, became more important than eradicating it.

This attitude infected the entire Department, manifesting itself in different ways throughout the ranks. It encouraged the Department's top managers to allow corruption controls to wither through neglect and denial of resources, and to allow the principle of command accountability to collapse through lack of enforcement. That encouraged local field commanders -- who can best prevent and uproot corruption because of their daily interaction with and authority over the vast majority of officers on the streets -- to ignore evidence of corruption on their watch or to transfer problem officers out of their commands. When this happens, the Department loses a powerful tool for changing the culture of the Department. It also sends a powerful message to patrol officers who are most susceptible to corruption's allure: that despite obligatory rhetoric to the contrary, corruption is tolerated in the stationhouses of this City.

This fear of corruption disclosures infected the Department's internal investigative apparatus as well. Officers of all ranks in the Internal Affairs Division ("IAD") and the Field Internal Affairs Units ("FIAUs") testified in the course of our investigation that the commanding officers of IAD -- and the top managers of the Department -- wanted to minimize the likelihood of uncovering serious corruption. One IAD detective, to whom we promised confidentiality, said he was expected to have a "see no evil, hear no evil" approach to corruption investigations. A former IAD supervisor told the Commission that IAD investigators and supervisors understood that their mission was "damage control", not uncovering serious corruption. The six-year chief of the Department's Inspectional Services Bureau, Daniel Sullivan, confirmed that the highest levels within the Department wanted Internal Affairs and local field commanders to be toothless in fighting corruption. He testified at the Commission's public hearings that:

There was a message that went out to the field that maybe we shouldn't be so aggressive in fighting corruption because the Department just does not want bad press. (Tr. 25)

Numerous officers told us that the Department's desire to minimize corruption disclosures became particularly intense after the 77th Precinct scandal of 1986, when thirteen officers were indicted on charges ranging from larceny to sale of narcotics. Although the Department's Internal Affairs Division and the Office of the Special State



Prosecutor<sup>10</sup> investigated that case aggressively, there was a pervasive perception throughout the Department that the negative publicity it generated harmed the Department and undermined public confidence in it. The former Commanding Officer of the Manhattan South FIAU, Captain Charles Luckner, for example, told us in a private interview:

Q: What would the reaction be when there was a precinct-wide scandal? Was there some embarrassment about that?

A: Oh sure. They didn't want it.

Q: Who didn't want it?

A: Nobody. The Department didn't want it. [Laugh] I would say the Department didn't want it from the Police Commissioner down . . . I think one of the big things, if I remember correctly, was when they had the one in Brooklyn's 77th [Precinct]. And Ward was the Commissioner. He took that as a personal affront and he wanted to know how come this thing came about. Why did this blow up into a big thing like this? Why didn't they chip off one, two, three, or four or five [police officers] . . . and it wouldn't have been a big thing. You understand. Instead of making a wholesale arrest of four or five or six officers, you know, you take one here, one there, one there, one there. . . . It don't make headlines [Laugh] . . . That seemed to be the underlying, you know, message that sort of came down.

Chief Sullivan confirmed Luckner's conclusion. He similarly testified that "the 77th Precinct case was a black eye for the Department, and they certainly didn't want to have another one of those." (Tr. 26)

There is no mystery to the Department's reluctance to uncover corruption. No institution wants its reputation tainted by corruption and scandal. This is particularly true of police departments where top commanders typically believe that careers and morale will suffer as a result of corruption revelations.

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<sup>10</sup> The Office of the Special State Prosecutor was created in 1972 at the recommendation of the Knapp Commission. It had city-wide jurisdiction over allegations of corruption within the entire criminal justice system, including the police department. Its sole functions were investigative. It had no responsibility or authority to oversee or audit the Department's self-policing efforts.

There is another reason for the Department's reluctance to uncover corruption: its success in uprooting corruption is often viewed as failure. When it comes to uncovering corruption, the Department sees itself in a no-win situation. If it succeeds in uncovering corruption, the public and the press often take these revelations as evidence of widespread management and integrity problems. On the other hand, if it fails to uncover corruption, the Department's integrity problems fester and scandal is the inevitable result. This creates little incentive to have zealous anti-corruption efforts.

An ineffective anti-corruption system, unfortunately, gives top commanders a way out of this dilemma. As long as the Department believes that success in uncovering corruption will be viewed as a graver failure than allowing it to exist, the institutional incentive to ignore evidence of corruption will only grow. A truly independent oversight monitor offers a solution. While pressing the Department to aggressively police itself, such a monitor can also assure the Mayor and the public that corruption disclosures are evidence of the Department's success in maintaining integrity.

The Department's corruption controls are no longer in a state of neglect. As has been the case historically, the Department swiftly strengthened its ability and will to police itself after the creation of an independent Commission. An anti-corruption apparatus that had been neglected for a decade became the focus of resources and reforms under the glare of outside scrutiny. We applaud this commitment and have recommended measures to insure that the pressure created by independent oversight and public attention does not abate over time.

But much can be learned by examining how badly the Department allowed its anti-corruption systems to unravel. It shows the inevitable consequence of leaving anti-corruption efforts solely within the control of a Department that has a natural incentive to believe it will be embarrassed and harmed by the very success of those efforts.

## **I. THE CREATION AND CORRUPTION OF THE DEPARTMENT'S INTEGRITY SYSTEM**

To understand how the Department's anti-corruption apparatus failed to work, one must first understand how it was originally supposed to work, and compare that to its actual function.

## **Spreading Accountability**

In response to the Knapp Commission investigation of the early 1970s, Commissioner Patrick V. Murphy reorganized the Department's anti-corruption system by distributing responsibility for fighting corruption among local commanders and in a centralized Internal Affairs Division. This was the system the Department had in place until the creation of this Commission.

Both the Knapp Commission and Commissioner Murphy understood that to successfully root out corruption in the New York City Police Department, something more than just a strong central investigative capacity would be required. Strong central investigations by skilled and determined corruption fighters was important. It was a powerful way to show the Department's commitment to dealing with corruption, and to make determinedly corrupt cops think twice before engaging in corrupt acts.

But they also believed that central investigations by themselves would not be enough to deal with the problem. In their view, corruption could be successfully prevented and detected only if field commanders played an integral part in fighting corruption and were held accountable for corruption on their watch. A completely centralized anti-corruption system could not work because it concentrated accountability for corruption control too narrowly: in a centralized Internal Affairs Division, rather than in the field. Simply put, in Murphy's view, centralizing total responsibility for anti-corruption in IAD let local commanders off the hook and eliminated the best opportunity for effectively fighting corruption.

To produce a greater impact on corruption in the police department -- to find a way to penetrate and ultimately crumble the blue wall of silence -- the Knapp Commission and Murphy believed that they had to find a way to mobilize the Department's managers, supervisors, and officers into corruption fighters rather than corruption tolerators. The cornerstone of this idea became the principle of command accountability: that all commanders are responsible for pursuing corruption in their commands and will be evaluated firmly but fairly on their performance.

The difficulty was finding some way to make this abstract principle a reality in the daily lives of the managers, supervisors and officers of the Department. The principle had to become real rather than rhetorical. To achieve this, Commissioner Murphy made some important organizational changes in corruption control within the Department.

To hold commanders responsible for corruption in their commands, they had to have the tools and resources to effectively uproot it. Murphy believed this could best be accomplished by giving them an investigative capacity. He created the FIAUs -- local, field internal affairs units -- that investigated corruption in the patrol boroughs and special commands. They reported directly to both the local borough or field commander and to

IAD. In principle, the FIAUs therefore were a crucial component of the anti-corruption apparatus, that existed until the time this Commission was created.

Murphy also recognized the need for some centralized entity to conduct important or sensitive investigations and to assist the FIAUs. He therefore established a centralized IAD with three primary functions: to oversee and assist the FIAUs; to investigate serious, complex and highly-sensitive allegations of corruption; and to conduct intelligence-gathering and trend analysis for the FIAUs and IAD. This system was touted as the premier anti-corruption structure in the nation – and was emulated by law enforcement agencies both nationally and internationally. This system existed unchanged until it was restructured during the Commission's tenure in January 1993.

Despite the virtues of this system, there were two fundamental flaws that contributed to its downfall. First, although command accountability was the linchpin of the anti-corruption apparatus, no institutional mechanism was ever put into place to enforce it. Its enforcement depended solely on the Police Commissioner's dedication and adherence to that principle. If the Police Commissioner did not enforce a policy of holding commanders accountable when corruption was detected, no other person or unit within the Department accepted responsibility for carrying out that important function. Over time, enforcement of command accountability completely broke down.

Second, although IAD was responsible for overseeing the entire FIAU structure and insuring its effectiveness, no institutional mechanism was ever put into place to oversee IAD and insure its successful performance.<sup>11</sup> The assumption was simply that the top brass would be responsible for overseeing IAD and the Department's entire anti-corruption apparatus. That worked fine for a time. But the system relied exclusively on police managers' commitment to integrity, rather than on institutionalized oversight. Once public attention and Departmental priorities shifted elsewhere, the Department's interest in corruption control began to wane. So too did any oversight of and commitment to IAD – or to any component of the anti-corruption apparatus. Over time, the system began to decay. Officers in and out of Internal Affairs adopted the attitude that its work was not only unimportant, but that its success was perceived as a thorn in the Department's side.

When IAD's performance began to wither, so too did the entire FIAU structure. Vital resources were denied to IAD and the FIAUs; quality officers, for the most part, avoided assignment to these units; and the performance of these operations was well below what would have been tolerated in any other command. Given the Department's natural reluctance to uncover corruption, no top commander within the Department attempted to reverse the system's decline – or, of course, alert the public as to the state of its corruption controls.

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<sup>11</sup> Although the Chief of the Inspectional Services Bureau, of which IAD was part, theoretically oversaw IAD, in reality no one provided an independent oversight role.

The specific time when the Department's corruption control system collapsed is difficult to answer. The erosion was gradual. Interest in integrity issues was naturally at its height during the Knapp Commission era and slowly diminished over time. Our inquiries focused primarily on the past decade, largely because of the availability of documents, files and witness recollections.

By the time this Commission commenced its inquiries in September 1992, only the skeleton of Murphy's system remained. Units and systems existed only on paper and had no direction or responsibilities in practice. This state of affairs was allowed to continue because it appeared to protect the Department and satisfied its top commanders. No one in the Department had any incentive to fix what had broken, until their feet were held to the fire of public scrutiny.

### **The New Anti-Corruption Apparatus**

Early in the Commission's life, after the revelation of officer Michael Dowd's corrupt activities as uncovered by the Suffolk County District Attorney's Office, Commissioner Raymond Kelly completed his own investigation of the state of the Department's corruption controls. He too found that the anti-corruption apparatus had completely collapsed, and that the FIAU structure had eroded. He decided to reform the system and centralize the Department's internal investigative function. He therefore combined the FIAUs and IAD under one new bureau called the Internal Affairs Bureau ("IAB"). IAB is responsible for investigating all allegations of serious corruption, intelligence-gathering, and corruption trends analysis.

Some have argued that in centralizing the investigative apparatus, the Department has eliminated its only tool for keeping local commanders accountable: the FIAUs. But this assumes that a field investigative capacity is the only way to keep local commanders accountable. We do not necessarily agree. While we are convinced that command accountability is vital to corruption control, we do not believe that a decentralized investigative structure is the only way to reach that goal. Indeed, we found that placing the investigative capacity for police corruption in the control of local commanders was often counterproductive. Field commanders have a built-in incentive to contain corruption disclosures, and not pursue corruption with zeal because of fear of an adverse impact on their careers.

We found that many of the FIAUs were so overwhelmed with work and had so few resources that it was virtually impossible for them to investigate police corruption. This was no secret to some borough commanders who, along with IAD, were responsible for overseeing the FIAUs' operations and allocating resources and personnel to the FIAUs. But ineffective FIAUs served a protective function for borough commanders: they minimized the likelihood of serious corruption disclosures. We also found that, in practice, the FIAUs

were rarely used as a management tool to keep borough or precinct commanders accountable. Although the FIAUs initiated some of their own investigations, they primarily investigated complaints assigned to them by IAD.

We are convinced that corruption controls can only be effective if local field commanders are made responsible for fighting corruption. We have concluded, however, that other means exist for decentralizing responsibility for fighting corruption and for fairly enforcing command accountability other than the FIAUs. For example, we believe the Department can accomplish this critical task by making commanding officers, from borough commanders to local precinct supervisors, responsible not for investigating corruption -- which they rarely did in practice anyway -- but for undertaking consistent efforts to prevent, detect and report it to IAB for analysis and investigations. If borough or precinct commanders believe they have a corruption problem in their command, they must be held responsible for reporting that information to IAB, and for assisting IAB in any ensuing investigation.

In sum, we believe that the current centralized investigative structure can work so long as the Department successfully decentralizes responsibility for preventing and reporting corruption throughout the Department. We are convinced that the application of the principle of command accountability is the only way to spread the values and incentives necessary to combat corruption successfully.

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That the Department has now reformed its internal investigative apparatus should not give us total comfort. The source of the past failures has not been eradicated, just pushed aside. As an institution, the Department will always view corruption disclosures as painful and harmful. It will always be reluctant to vigorously pursue corruption among its own; it will always hope that the investigative net it casts reels in as few corrupt cops as possible. The best evidence of this underlying institutional attitude is to look at how badly the system crumbled when there was no independent oversight. In the following sections, we present the evidence to demonstrate just that.

## II. THE COLLAPSE OF COMMAND ACCOUNTABILITY

Although the success of command accountability hinges on making commanders accountable for preventing and uprooting corruption in their commands, we found that the principle of command accountability had virtually collapsed in past years. Police Commissioners and their subordinates rarely evaluated a commander's anti-corruption performance, either regularly or during periods of scandal. Nor did they typically sanction or reward commanding officers for their performance in fighting corruption.

Indeed, even in the face of significant corruption disclosures in precincts like the 75th Precinct, the 73rd Precinct, and the 46th Precinct, we are aware of no commanding officers or supervisors who were sanctioned for permitting such conditions to exist in their commands.

Even worse, we found that one of the basic principles of command accountability -- that diligence in uncovering corruption will be rewarded -- had been completely perverted. In recent years, a message had filtered down from top commanders -- including Police Commissioners -- that disclosure of corruption, even that resulting from vigilant corruption fighting, would be viewed as a management failure.

That this attitude came from the top is clear. Chief Sullivan testified publicly that the message from the Department's top commanders "that went out to the field [was] that maybe we shouldn't be so aggressive in fighting corruption because the Department just does not want bad press." (Tr. 15) He went on to testify:

Some field commanders might feel it was more prudent not to address or dig out corruption faced with their impression of what the intentions of the Department was [sic] -- There was a disincentive for [field commanders] to root out corruption and, you know, to the depth that it was in the 77th Precinct -- They did not work as diligently as they could have in rooting out corruption. -- [There was a concern] that if they're going to generate bad news, and it may not be accepted at the top, this would be harmful to their careers. (Tr. 26-27)

Thus commanding officers and supervisors alike were often more interested in whether their troops were discreet than honest. In the 30th Precinct, for example, at least one high-level commander openly warned his officers to be careful if engaging in corruption: his message was to avoid getting caught, rather than to avoid the wrongdoing. In other precincts where we found extensive corruption, few supervisors had ever pursued or reported corruption even when they should have suspected or known it existed.

We also found that precinct and borough commanders viewed corruption more as a local managerial problem than a Departmental one. If they had suspicions about a corrupt officer in their command, they often attempted to solve the problem, and protect their careers, by reassignment or transfer to maintain the stability and performance of their precinct or borough. The Department should no longer allow this to occur. The Police Commissioner should clearly inform his field commanders that corruption is a Department-wide problem -- not a local one -- and local commanders' desire to solve the problem by administrative transfer must bow to the Department's desire to remove corrupt officers from its ranks.

There are three primary reasons for the collapse of command accountability. First, its enforcement is complicated and time consuming. It means more than occasionally rolling heads when corruption is disclosed so the Police Commissioner can look tough in the midst of scandal. Such a strict liability stand -- which has been the Department's sole means for dealing with command accountability in the past -- only provides incentives to conceal, bury or transfer corruption, rather than uproot it. Second, no mechanism was ever instituted to enforce command accountability beyond the counter-productive, and often unfair, "heads must roll" approach. To truly enforce command accountability successfully, and to motivate commanders to uncover rather than conceal corruption on their watch, the Department must conduct inquiries into whether corruption disclosures are evidence of commanders' poor performance in maintaining integrity or good performance in uprooting it. This requires a complete overhauling of the system of command accountability.

A third reason for the collapse of command accountability is that in the recent past, no one in the Department was eager to enforce it. Neglecting command accountability serves a self-protective function for the Department. It sends a message to local commanders everywhere that uprooting corruption need not be a concern; that turning a blind eye is acceptable. This, of course, insures that police commanders will not aggressively pursue corruption throughout their precincts -- which minimizes the chances of scandal. Consequently, one of the best tools for spreading the fight against corruption, and changing the culture that tolerates it, is lost.

We recognize that enforcing command accountability is not easy. It requires regular and special case evaluations of anti-corruption performance; it requires factual inquiries into culpability rather than reactive head rolling; and a commitment from the Department's top commanders to insure its enforcement.

In sum, successful enforcement of command accountability requires a complete reinvention of the systems for enforcing it. This is precisely what we recommend in the next chapter.

### III. INEFFECTIVE FIELD SUPERVISION

Few deny that strong supervision is critical to effective corruption controls. Despite this, at the beginning of our inquiries, honest and corrupt cops alike reported that in many precincts in our City, police supervision was in a state of crisis. The Commission therefore devoted much effort to investigating the state of supervision in the Department and the attitudes and practices of supervisors today. To accomplish this, we focused on supervision in our field investigations, in interviews with corrupt officers cooperating with the Commission, and in formal and informal interviews with supervisors and commanders of all ranks in the Department. We also initiated a special supervision project in which we reviewed the Department's practices and performance in this area, and held a series of



private hearings with lieutenants and sergeants who serve in precincts around the City, and whose experience in the Department ranged from nine to thirty years.

Our investigation revealed a widespread breakdown in supervision which fueled and protected the corruption we observed. In fact, in every precinct where we found corruption, we found ineffective or sparse supervision -- and a willingness by certain supervisors to turn a blind eye to corruption which they knew or strongly suspected existed. In fact, many supervisors did not believe that uprooting corruption was part of their responsibilities.

These supervisory failures are a major contributing factor to corruption and the climate of tolerance that makes it possible: it protects cops who are corrupt; emboldens those contemplating corruption; and sends a message to all that the Department is more concerned about officers being subtle than honest.

### **Willful Blindness**

The reason for supervisors' willful blindness varies. Some believe that their superiors want them to be good administrators, not effective corruption fighters. Others believe that uncovering corruption would harm rather than help their careers, as the collapse of command accountability has proven. Other supervisors -- particularly inexperienced ones -- not only believe that their reputations would suffer by uncovering corruption, but that their lives would be made miserable by their subordinates. They find it difficult to make the leap from patrol officer to "boss." They still want to win acceptance and cannot shake their concern that they would suffer repercussions from their subordinates for reporting corruption. So powerful are these attitudes, that many sergeants admitted that they would not openly report even serious corruption among their troops.

The facts bear this out. Despite the open and frequent corruption of Dowd, Hembury, Cawley, and many 30th Precinct officers, Department records and interviews indicate that their supervisors did not report their knowledge or suspicions about corruption to Internal Affairs. While most supervisors claim ignorance of the facts, the Commission finds it hard to believe that at least some supervisors failed to know about the open, group corruption of these officers.<sup>12</sup>

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<sup>12</sup> The Commission cannot at this time disclose the names of these supervisors because we expect that many are or will be subjects of Departmental inquiries.

## Performance Evaluations

Not only have many supervisors neglected their anti-corruption responsibilities, but many have even abandoned their responsibility to evaluate officers in their command – and to flag “problem” officers for the Department. Indeed, in our supervision project, supervisors admitted that performance evaluations were typically boilerplate, and not intended to flag problem officers for the Department or their superiors. Indeed, we found that performance evaluations often covered suspected corruption problems. The case of Michael Dowd presents a classic illustration of this problem. Michael Dowd testified that when he had reached the height of his career as a corrupt officer, was using drugs and drinking on the job daily, had not made a single arrest in one of the most crime-ridden precincts in the City, was driving a red Corvette and living an openly lavish life-style from his illicit drug profits, his supervisor gave him a “meets standards” evaluation and said he could one day be a “role model” for other officers. His evaluation was as follows:

<b>NYPD EVALUATION OF MICHAEL DOWD - 1987 (75th Precinct)</b>	
<b>RATER COMMENTS</b>	
This officer has excellent street knowledge; relates well with his peers and is empathetic to the community. This officer could excel within the New York City Police Department and easily become a role model for others to emulate if he maximized his inner drive to fulfill job responsibilities to the fullest. Must improve attendance and arrest activity. Good career potential.	

The supervisor's explanation for this evaluation at a private hearing was that although Dowd was a disciplinary problem, he was changing his ways. Dowd, like many other openly corrupt officers with whom we spoke, reported that this lack of strong supervision and many supervisors' apparent willful blindness made him believe that he could "do just about anything and get away with it." (Tr. 150)

### **Resource and Management Failures**

But field supervisors are not the sole culprits here. The Department's management is largely to blame for this state of supervision. Indeed, it is the Department's past Police Commissioners and top managers who, through their inaction and silence, permitted this situation to exist. It is the Department's top commanders who let supervisors off the hook and let command accountability wither. It is true that past Police Commissioners had other important priorities and concerns and they carried these out with skill and efficiency. But that does not excuse their failure to maintain strong supervision and command accountability.

The Commission found that supervisory conditions and resources were often so poor that even supervisors committed to fighting corruption could not do so successfully. For example, although sergeants are often in the best position to know about, confront, and deter corruption, conditions often prevented them from doing so.

We observed a critical shortage, and misallocation, of sergeants within the Department. This caused unmanageable ratios of supervisors to subordinate officers ("spans of control") in many precincts. Virtually all of the sergeants we interviewed testified that their spans of control were too large to effectively supervise their subordinates. Despite the fact that experts informed us that the proper ratio of sergeants to officers should be one sergeant for every ten officers, we found that in some precincts, sergeants were routinely responsible for supervising over thirty patrol officers spread throughout the precinct.

It was also not uncommon for supervisors to be responsible for simultaneous supervision of officers assigned to two separate precincts. Indeed, one former sergeant in the 75th Precinct testified that during her probationary period as a new sergeant, she was routinely the only sergeant on duty responsible for supervising the crime-ridden and corruption-prone 75th and 73rd Precincts where Dowd, Hembury and their corrupt colleagues were assigned. One lieutenant assigned to a busy precinct had recently been given the impossible task of being the sole supervisor for three precincts on a Saturday night. The only support the lieutenant was provided: two walkie-talkie radios. What this means is that in reality a vast number of officers, often in the most corruption-prone precincts, carry out their jobs without any supervision at all -- as these officers know all too well.

To make matters worse, we also found that sergeants typically perform a host of administrative duties that require them to devote more time to paperwork than to the field. In many high-crime precincts, sergeants do no supervising at all. Besides their long list of administrative duties, many sergeants were routinely responsible for handling calls for service ("radio runs"), not in a supervisory capacity, but merely to fill in for busy patrol officers who are supposed to handle these calls. One sergeant from a Queens precinct testified in a private hearing that it was not unusual for her to respond to a number of runs in a single tour: "The only difference between me and one of my people in that situation was that as a sergeant I got driven to the job by a driver." A patrol sergeant in a busy Bronx precinct indicated that it was not unusual for him to handle ten radio runs himself while simultaneously attempting to carry out his long list of supervisory duties. Even worse, the evidence indicates that this problem is often most severe on weekends and on late tours of duty -- when corruption opportunities are more frequent -- because fewer officers are available to handle the volume of radio calls. Under such conditions, it is practically impossible for sergeants to know what their subordinates are doing at any given time.

Moreover, sergeants have suffered a considerable dilution of authority over recent years. When forced to perform the duties of their subordinates, it is difficult for sergeants to establish the authority they need to be effective supervisors. As one patrol sergeant testified: "The result is that cops look at the sergeant running around handling the same jobs they are. He's not supervising; he's just another pawn and his authority suffers."

The Commission found additional reasons for this dilution of authority among supervisors, particularly sergeants. In today's Department, sergeants are younger and less experienced, and often have strong allegiances to the officers under their command rather than to the Department's management. Currently, an officer may take the sergeant's examination after only eighteen months of experience -- i.e., immediately after his term as a probationary officer expires. As a result, many sergeants have great difficulty establishing credibility and command authority. They find it difficult to effectively control and discipline officers with whom they are friendly, or seasoned veterans by whom they are intimidated. In short, in many commands throughout the Department today, sergeants are no longer perceived by officers -- or themselves -- as "bosses."

What is particularly troubling about these supervisory failures is that they are often most acute in those crime-ridden precincts where corruption opportunities most abound, and where effective, experienced supervisors are most needed. Many officers reported that Department commanders often assigned sergeants and other supervisors to high-crime precincts without regard to prior experience, training or the needs of the particular command. Too often, inexperienced, probationary sergeants were assigned to busy, corruption-prone precincts where experienced and proven supervisors were most needed. This practice is even more alarming because the Department also often sent those officers with disciplinary problems, those most susceptible to corruption and most in need of

effective supervision, to these crime-ridden precincts -- which are widely perceived as the Department's "dumping grounds."

### Integrity Control Officers

We also found that the Department failed to support the very supervisors responsible for helping to insure integrity in our City's precincts: the Integrity Control Officer ("ICO"). This is the one precinct supervisor responsible for assisting commanders with corruption detection and prevention. What began as a sensible program to minimize corruption has become an administrative failure. The ICO position is currently regarded as one of the least desirable and rewarding positions in a precinct. Most lieutenant ICOs we interviewed candidly told us that they spent little time controlling corruption and most of their time tending to paperwork and administrative matters. They typically described their job as a secretary to the precinct commander rather than as corruption fighters. Most ICOs had few resources, and received little training in what their duties are, much less in how to conduct corruption investigations. In fact, ICOs are rarely, if ever, consulted about internal investigations in their commands -- even though many have valuable information that could assist Internal Affairs investigators.

Some claim that ICOs have been kept ignorant of corruption investigations to prevent leaks of information. Furthermore, IAD never perceived the ICOs as part of the anti-corruption apparatus. This practice should change. ICOs must be selected on their ability to be trusted with confidential information, and they must be given the resources, training and authority to carry out their important jobs throughout the Department.

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The Commission recognizes that policing is an activity that inevitably makes "close supervision" more of a myth than a reality. We also recognize that even close supervision will not be a panacea to end corruption: determined corrupt officers will succeed even under the best supervisors. But effective supervision is a vital element of corruption control. That element has been sorely lacking in the past.

In recent months, the Department has moved to correct many of the supervision problems identified by the Commission in its Interim Report and public hearings. An important function of the independent outside monitor we recommend will be to insure that this important component of the anti-corruption apparatus does not again collapse -- particularly in those precincts where corruption opportunities most abound and effective supervision is most needed.

#### **IV. THE DETERIORATION OF THE INVESTIGATIVE STRUCTURE: THE COLLAPSE OF IAD AND THE FIAUS**

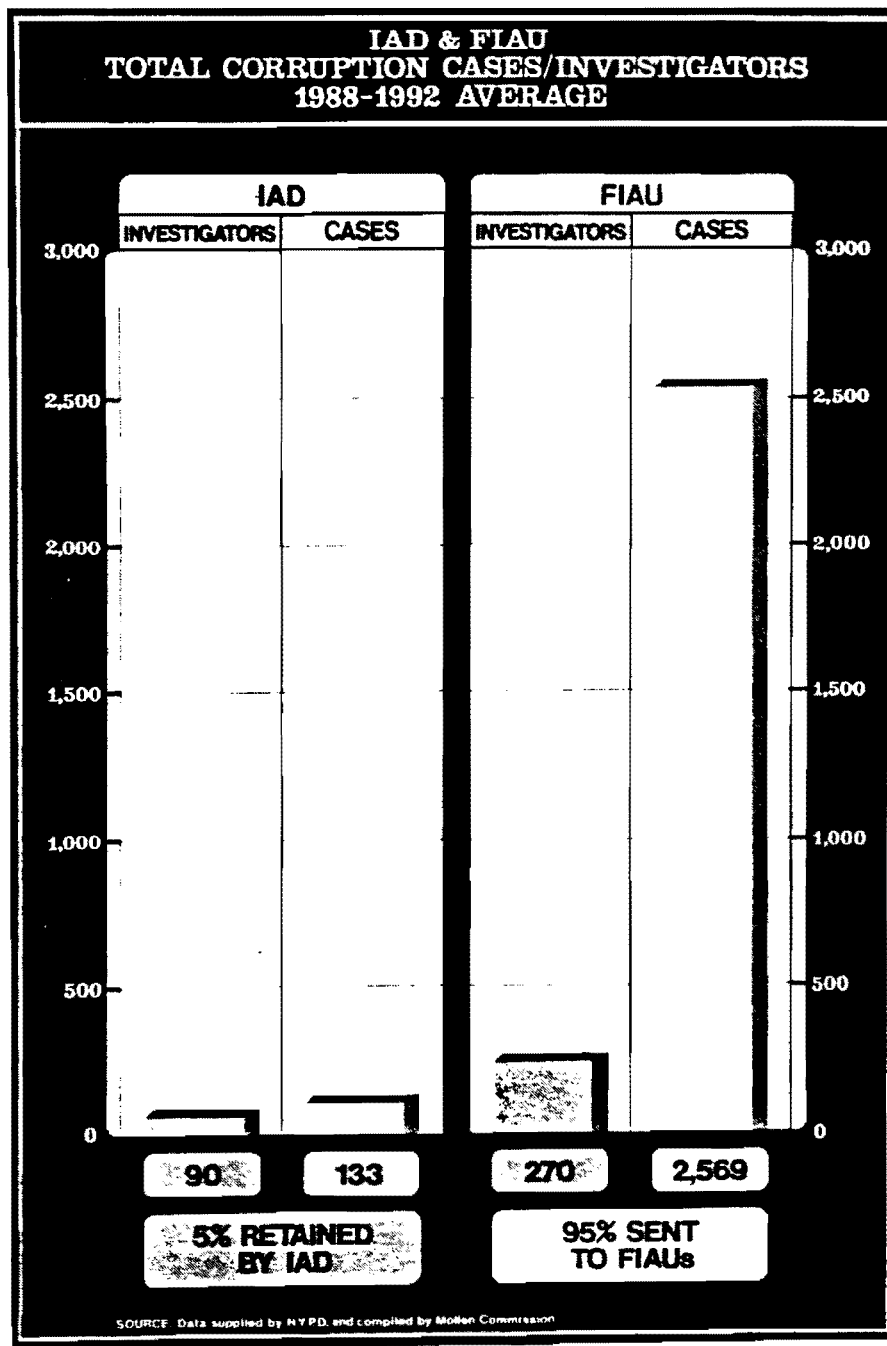
##### **The Internal Affairs Division**

We found that IAD had virtually abandoned its primary functions over the past years: to investigate serious, complex and sensitive corruption cases; to oversee, assist and insure the quality of the FIAUs; and to conduct analysis on corruption trends to assist the FIAUs and itself in investigating corruption. And most alarming, no one in the Department seemed to care.

From the beginning of our inquiries, IAD investigators cooperating with the Commission told us that the work ethic in IAD was to close cases with as little effort as possible. Most IAD investigators, we were told, did nothing all day. One officer told us they sit around and “eat donuts and do crossword puzzles” – and the supervisors and commanders did little more. Indeed, the Commission conducted an anonymous survey of the work conditions and attitudes of IAD investigators which revealed that almost half of IAD investigators’ time was spent on non-investigatory matters – and most of their “investigative” work was done without ever leaving their office. The perception that most officers outside of IAD had of it was similar. IAD suffered a deserved reputation for attracting poor investigators, of focusing on petty misconduct rather than serious corruption, and on conducting “armchair investigations” – in the comfort of their offices rather than in the field.

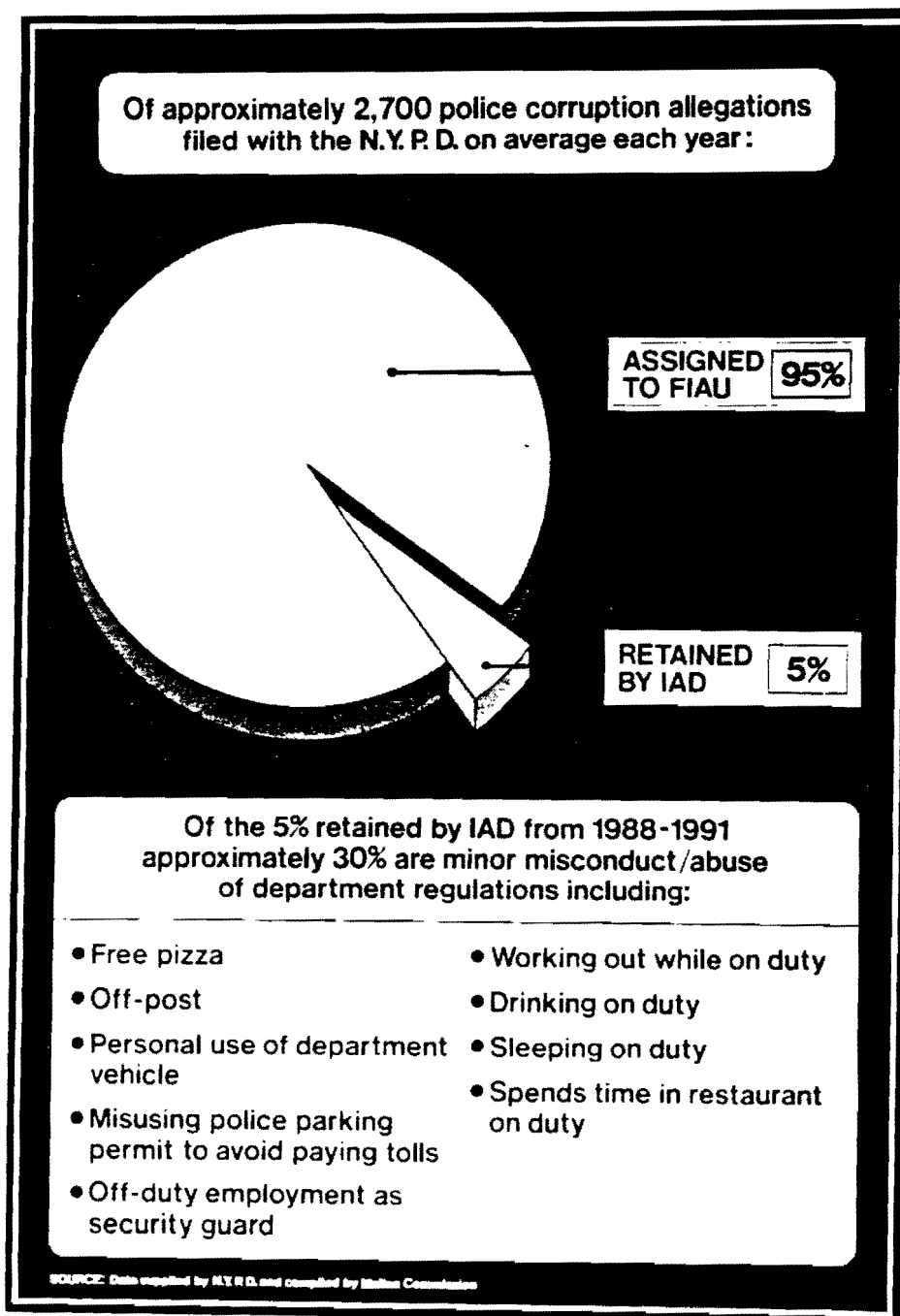
The facts confirmed IAD’s do-nothing reputation. To begin with, it handled a negligible number – 5 percent – of corruption cases each year. Although IAD had approximately one hundred and fifty officers, ninety of whom handled cases, it kept a mere one hundred thirty-three corruption cases a year for itself – and assigned all the rest to the over-burdened FIAUs. Thus, IAD investigators handled an average of two new cases a year. It is important to note that IAD’s top commanders from 1986 through 1992 – Chief Daniel Sullivan, Assistant Chiefs John Moran and Robert Beatty, Deputy Chief William Carney and Inspector Michael Pietrunti and Deputy Inspector Thomas Callahan – were responsible for selecting or approving the quantity and quality of cases IAD and the FIAUs would handle each year.

In contrast, IAD assigned the FIAUs – which had woefully insufficient resources and personnel – 95 percent of all the Department’s corruption cases: over twenty-five hundred a year. FIAU investigators consequently handled what even their commanders conceded was an impossible caseload: an average of 18 cases per investigator, with investigators in high-crime precincts where corruption is most frequent handling up to thirty to forty cases at any given time. The following exhibit makes this clear:



This massive discrepancy in caseloads could possibly be justified if IAD had been fulfilling its mandate to retain and investigate only the most serious and complex corruption cases. The facts showed the opposite was true.

Many of the cases that IAD's top commanders decided to retain for IAD were the simple, easy-to-solve "ground ball" cases that did not require much investigative effort. In fact, we found that approximately one-third of all cases that IAD's commanders retained were allegations of petty misconduct including: officers being off-post, sleeping on duty, or misusing police parking permits. The following exhibit makes this clear:





When questioned on this matter, however, Chief Sullivan testified that not only would IAD not keep such minor cases, but many of them should never even have been classified as corruption cases. Moreover, although IAD's chiefs received daily summaries of all IAD cases, many indicated they were unaware that IAD had so obviously abandoned its mission to investigate serious corruption.

After the creation of this Commission, IAD swiftly began to remember its mission. It began to investigate more serious cases, and retained 40 percent fewer petty misconduct cases in the year following the Commission's establishment than in the previous four years. The former Commanding Officer of IAD's Records Section, Sergeant Steven Webber, testified that he attributed this decline to the existence of scrutiny independent of the Department's chain of command.

Despite the petty nature and small quantity of IAD's cases, it nevertheless closed as unsubstantiated more than 60 percent of its cases, indicating its investigators found insufficient evidence to either prove or disprove the allegation. Most alarmingly, our investigation revealed that many of these cases were closed as unsubstantiated before all basic investigatory steps were taken.

We also found that the number of cases IAD claimed in Department records to have substantiated every year was inflated and inaccurate. To investigate this issue, a team of Commission investigators reviewed every case IAD closed as "substantiated" over the past five years. We found that in many of these cases IAD had closed the main corruption allegation as unsubstantiated, or recorded as its own an allegation substantiated by another law enforcement agency. In other words, IAD bolstered its statistics by including successful corruption investigations undertaken outside IAD.

Equally disturbing, we found that IAD's claimed substantiation rates were inconsistent, and were calculated in a manner that Lieutenant Donald Poliseno, the Commanding Officer of the IAD Analysis Unit, testified "doesn't make any common sense." In sum, although IAD's reporting lines and practices looked good on paper, in practice, they were largely a sham.

IAD's top commanders had unbridled control over the Department's investigations with no accountability. No other Division in the Department had such unreviewed discretion. Obviously when no one reviews performance or demands results, performance wanes -- as the Department's top commanders no doubt knew, or should have known.

## The Field Internal Affairs Units

The Department also allowed IAD's oversight of the FIAUs to erode -- and the entire FIAU structure virtually to collapse. Although an entire IAD unit (the Staff Supervisory Unit) was, in theory, charged with overseeing and assisting the FIAUs, our inquiries revealed that IAD hardly attempted to carry out this critical task. To the contrary, the evidence shows that IAD withheld vital assistance, information and resources from the FIAUs. Numerous IAD and FIAU officers reported that IAD would not even share essential information or witnesses with the FIAUs; and that the "unwritten policy" was to deny the FIAUs access to IAD investigative files -- even those with information on officers that the FIAUs were investigating.

For example, when investigators from Manhattan South's FIAU were questioned in private interviews about a large corruption investigation they had conducted in the 9th Precinct, they learned for the first time, through the Commission's inquiries about an IAD investigation into the very same precinct at around the same time as their investigation. In the Michael Dowd investigation, Sergeant Joseph Trimboli, the FIAU investigator who pursued Dowd for five years, testified that he first became aware of vital information that IAD had about Dowd in the course of the Commission's questioning at a private hearing.

When interrogated about this senseless practice, IAD commanders denied knowledge of this "no access" policy -- which was widely known and acknowledged by lower-ranking IAD officers and by FIAU officers of all ranks. One IAD detective, to whom we promised confidentiality, who had served in the IAD unit that purportedly oversaw and assisted the FIAUs, testified in a private hearing: "There was no sharing of information between [IAD] and the FIAUs. IAD did not trust the FIAUs at all . . . [there was] fear of disclosure of confidential information that could be an embarrassment to the Department." The evidence suggests that the secrecy IAD built around its cases was designed not to protect confidentiality, but to limit the scope and the success of the FIAUs' investigations. It also created a deep hostility and distrust that divided the Department's entire investigative apparatus.

Department commanders also crippled the FIAUs by denying them adequate resources and personnel. FIAU officers of all ranks -- from the former Commanding Officer of Brooklyn North's FIAU to officers in Manhattan South's FIAU -- testified that they simply did not have the basic equipment needed to investigate police corruption in their boroughs. One FIAU investigator told the Commission that the lack of available resources got so unbearable that she went to a local magic shop to purchase a disguise so she could conduct surveillances on foot because the FIAU cars and investigators were so well known among cops in the high-crime precincts she was investigating.

Insufficient resources, however, was only part of the problem. The volume of serious cases that IAD's top commanders -- including Callahan, Carney, Moran, and Beatty --

routinely assigned or approved for the FIAUs, coupled with the FIAUs' understandably dismal performance in investigating so many cases, further suggests that the Department knowingly sent many police corruption cases to the FIAUs to die.

For the top commanders in IAD and the Department to knowingly allow the FIAUs to become the graveyard for the overwhelming majority of police corruption cases again reflects the Department's preference to bury rather than confront the problem of police corruption.

## **V. FRAGMENTING, MINIMIZING AND CONCEALING POLICE CORRUPTION CASES**

The New York City Police Department is nationally renown for its skill and accomplishments in criminal investigations. It aggressively pursues complex criminal investigations, employs creative and advanced investigation methods, and gathers information from every available source. This is true, we found, in all areas of investigation other than police corruption.

### **Minimizing Corruption Through Investigations**

IAD officers and others who assisted the Commission told us early in our tenure that the Department's approach to investigating police corruption was to minimize potentially embarrassing cases by closing them before all basic investigatory steps had been taken, by fragmenting broad patterns of corruption information into isolated allegations, and by minimizing the scope of corruption they would pursue.

The evidence bore this out. We found that police corruption cases were often closed prematurely, minimized, and fragmented into separate parts, which insured that the nature and extent of corruption uncovered would be minimal. The difficult issue was to determine whether this reflected a knowing cover up, simple incompetence, or both. The Department maintained -- until our public hearings -- that the failures of the system reflected a mere lack of coordination and resources rather than willful neglect or a reluctance to uncover serious corruption. Our findings suggest that was not always the case.

Two matters presented at the Commission's public hearings illustrate how investigations intentionally were prematurely closed or fragmented to avoid a large corruption scandal.

### ***The Michael Dowd/75th Precinct Investigation***

The first is the case of former police officer Michael Dowd. The FLAU sergeant who handled this investigation for approximately five years, Sergeant Joseph Trimboli, testified both privately and publicly that commanding officers of IAD had intentionally thwarted his efforts to uncover widespread, serious corruption by Dowd and other corrupt officers in the 75th Precinct. Trimboli testified publicly that he believed that high-ranking members of the Department “did not want this investigation to exist. They wanted it to go away” because they feared another embarrassing scandal “like what had occurred in the 77th Precinct. . . .” (Tr. 124-25)

The Commission’s investigation of the Dowd case – which included studying thousands of Department documents and files and interviewing dozens of IAD and FLAU officers, Dowd’s supervisors and precinct commanders, prosecutors, and Dowd himself – confirmed this conclusion. It revealed that IAD knowingly withheld from Trimboli vital information and witnesses, denied him essential resources, and refused him the assistance they knew he needed to successfully investigate the Dowd case. As a result, neither Trimboli nor anyone in the Department ever substantiated a single one of the thirteen complaints filed against Michael Dowd during his ten years as a police officer. After a long career of corruption in the Department, Dowd was finally arrested in May 1992 by the Suffolk County Police Department – not the New York City Police Department.

Former Police Commissioner Raymond Kelly conducted an inquiry into the Department’s failed investigation of Dowd following his arrest, at the direction of then Commissioner Lee Brown. He concluded that the failures he found were evidence of a failed investigative structure.

Our investigation revealed that the Dowd case exemplified far more than Commissioner Kelly’s report acknowledged. We found that it revealed a concerted effort on behalf of the top commanders in IAD to minimize disclosure of serious, and possibly widespread, corruption in the 75th Precinct in the years immediately following a notorious police corruption scandal in the neighboring 77th Precinct. We found that the Dowd case presents a glaring example of the Department’s institutional reluctance to detect and aggressively investigate corruption among its own.

Because of the historical importance of the Dowd case, and because the Commission’s conclusions differ significantly from the Department’s, a detailed report of the Commission’s findings about that investigation is set forth in the Appendix to this Report.

### *The Ninth Precinct Case*

The failed Dowd investigation, unfortunately, was not an isolated event. Another case presented at the Commission's public hearings shows how the top brass in the Department ordered a case prematurely closed to avoid uncovering widespread corruption in the 9th Precinct -- like the 75th, a high-crime precinct, with an active drug trade. In the Allan Brown/9th Precinct case, FIAU investigators of the Manhattan South FIAU and the Manhattan District Attorney's Office had developed a case of possible widespread narcotics-related police corruption, which was likely to uncover corruption among a closely tied network of approximately fifteen police officers, including Allan Brown.

The 9th Precinct investigation began in March 1991 when a reliable informant reported widespread narcotics-related corruption among a group of officers to FIAU investigators. The informant testified about the development of this case at our public hearings under the pseudonym, "Mr. X." Mr. X, who ran a shop in the precinct and was friendly with several of these officers, told investigators that a group of them regularly used drugs and alcohol on duty, and stole cash and drugs from local street dealers, often selling the drugs back to local dealers.

As the case developed, the objective was to infiltrate an upcoming party at Brown's home, where at least a dozen police officers with prior allegations of drug use were expected to use cocaine and engage in incriminating conversations. Mr. X had been invited to attend that party. Twenty-two days before the event, plans to infiltrate the party were complete: Mr. X and another undercover officer had been invited to the party and agreed to wear body recorders to capture conversations; the District's Attorney's Office was preparing search warrants; investigators had conducted surveillances of the location; photographs of the area had been taken; and plans for a female police undercover to attend the party were being finalized. In preparation for the arrests, under the direction of the FIAU and the Manhattan District Attorney's Office, Mr. X had on three occasions successfully purchased drugs from Allan Brown.

The FIAU sergeant and detective running the investigation, Sergeant Kenneth Ferguson and Detective Alex Ferrugia, testified that they expected the case to be a huge success and possibly one of the largest police corruption cases ever made by the Department.

But the investigation was prematurely closed. Twenty-two days before the party, the Commander of the Manhattan South Patrol Borough, Assistant Chief Thomas P. Walsh, ordered the prompt arrest of Officer Brown. His order, made at the request or with the approval of IAD's commanders, gave the other 9th Precinct officers notice of the investigation, and eliminated the opportunity to make a potentially large-scale corruption case in his borough.

The FIAU investigators running the case testified that the order to arrest Brown and prematurely end the investigation was made despite the strong opposition of the FIAU investigators and the prosecutor handling the case. Ferrugia, for example, testified that his colleagues and the Assistant District Attorney assigned to the case were "dismayed" over the decision because it "eliminated the opportunity to make a precinct-wide corruption case." (Tr. 188) Moreover, none of the investigators or IAD commanding officers we interviewed could describe a single legitimate investigative reason for the order. More significant, when asked in private hearings and interviews about who directed the order, the top commanding officers in IAD and the borough, including, Chief Daniel Sullivan, Deputy Inspector Thomas Callahan, and Chief Thomas Walsh, all suffered from memory lapses.

What is clear, however, is the Department policy that governed. An order to arrest a police officer would have required the approval of the Chief of Internal Affairs, Robert Beatty, or the Chief of Inspectional Services, Daniel Sullivan. Yet both contended in private hearings and interviews that they had no recollection of who approved the decision to arrest Officer Brown.<sup>13</sup>

Several investigators and supervisors told the Commission that they concluded the investigation was put to a premature end to avoid a precinct-wide corruption scandal and its consequences to the Department. The evidence supports this conclusion. From the beginning of the investigation, IAD showed a special interest in this particular case. In fact, as the investigation progressed, IAD called an unusual high-level meeting with various officers, including Detective Ferrugia, Captain Charles Luckner, his commanding officer, and high-ranking IAD officers, including Deputy Inspector Callahan, and IAD's Executive Officer, Deputy Inspector Daniel Byrne. In Ferrugia's ten year career in the Manhattan South FIAU, he had only been called to IAD for such a meeting once before. That too was in the course of another potentially large corruption case.

IAD's top commanders also were well aware of the potential scope of the 9th Precinct case. At that meeting, the FIAU officers briefed IAD about the potential scope of its investigation. FIAU investigators made clear that it had the potential to be another 77th Precinct case. The IAD commanders asked to be briefed regularly on the details and progress of the case -- which they were. The evidence indicates that IAD's top commanders knew about the target party and that the success of this investigation hinged on it taking place.

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<sup>13</sup> In a private hearing, Chief Walsh testified that he could not recall who had directed the order. At a private hearing and at the public hearings, however, Chief Beatty testified that in a conversation he had with Chief Walsh after the 9th Precinct case was presented at the public hearings, he and Walsh remembered that it was Walsh who had directed the order. Beatty could not recall with certainty if and when he had approved it.

Captain Luckner told the Commission in a private interview that, although he personally was not influenced by this attitude (as his subordinates confirmed), the top commanders in IAD and the Department did not want large scale cases -- like the 9th Precinct -- to succeed. The message from the top was to "fragment" cases: "instead of making a wholesale arrest of four, five, or six officers you . . . take one here, one there. . . . It don't make headlines," he said.

IAD's Deputy Inspector Thomas Callahan confirmed Luckner's perception. He testified that when he heard about the case and the planned infiltration of the barbecue, he thought about the embarrassment and "sensational" headlines it would cause. He testified that the publicity would have been "outrageous," especially because the event was to take place in Staten Island:

Question: When you said before it would get into some headlines when they got to the party, what did you mean?

Callahan: Well it would be outrageous that so many, if there were what was alleged, that there was going to be a group of officers, was it cocaine or marijuana?

Question: Yes.

Callahan: It was cocaine. It would be just, unbelievable, basically. I mean sensational, especially in Staten Island where it's, you know, stories - if a police officer sneezes over there, they put that on the front page. This would be outrageous to have something like this occur. Because, you know, to think that officers would be engaged in this kind of activity and so many at an open event in the backyard. Interesting in that way. I live there. I'd have to walk around probably explaining. I mean that goes on now. The conduct of officers in the Bronx and Queens and Brooklyn and so forth, with people that I know, because when the story hits the paper, sensational cases, everybody looks to you, the police department, as something's wrong. You're part of this kind of thing.

Finally, when asked why the case was shut down twenty-two days before the target date, not a single IAD commanding officer could provide a legitimate investigative reason. Some commanders, including Chief Walsh, said the order might have been issued because once they had evidence of an officer using drugs, the Department usually arrested the officer immediately. The evidence, however, suggests that this was a mere pretext for stopping a potentially scandalous case.

The Department had hard evidence of Brown's drug use thirty-two days before the order was issued, when Mr. X first bought drugs from Brown and captured incriminating conversations on tape. Department records also indicate that there were numerous allegations of drug use against former officer Brown spanning more than ten years. Moreover, three years earlier, it was recommended that Brown be terminated from the Department. Instead, he was placed on disciplinary probation for one year. During his probation, he was found to be in possession of false documents, was given a "below standards" evaluation, and there were allegations that he was regularly intoxicated while on duty and associated with known felons. Nonetheless, he remained on the job.

To argue that the Department suddenly decided that they had to dismiss him immediately -- twenty-two days before he could lead the Department to a large group of other allegedly corrupt officers -- is hardly convincing. If removing one drug-abusing corrupt officer from the job was so important, eliminating over a dozen drug-abusing officers should have been a dozen times more important.

### **Concealing Corruption Through Filing and Classification Systems**

The Department gave IAD complete, unreviewed power to control police corruption investigations by allowing it total discretion to decide what corruption allegations should be officially recorded and sent to prosecutors. The Commission found evidence of abuse of that power.

#### ***The Tickler File***

Early in our investigation, the Commission made a request to the Department for all IAD files. In response to that request, the Department failed to produce the "Tickler File." Subsequently, the Commission received a telephone call from an anonymous IAD investigator who urged us to investigate the Tickler File. He told us this file was used to conceal corruption allegations from the other divisions of the Department, and sometimes from prosecutors. He also said that concealing corruption cases in the Tickler File, and by other means, was not uncommon in IAD.



The evidence largely bore this out. Although IAD top commanders -- including Chief Sullivan -- testified in private hearings that the Tickler File contained no unrecorded corruption cases because such a practice would be "tantamount to killing" a case and concealing it from prosecutors, our investigation showed that this statement was untrue.

The Commission found in the Tickler File approximately forty corruption cases over the past five years that had never been recorded in IAD's official records, or sent to prosecutors. Approximately half of these corruption cases involved allegations against IAD or high-ranking officers, or their families; in the remaining cases we could detect no pattern to explain their inclusion in the Tickler File. Many of the Tickler File corruption cases were quite serious in nature, ranging from sale and use of narcotics, protecting drug dealers, accepting payoffs from organized crime figures, to perjury and leaking confidential information.

For example, one Tickler File case presented at the public hearings -- noted as the "Biker Babe Case" in IAD files -- contained allegations that a police officer, who was the daughter of a ranking IAD officer, used drugs, and associated with and leaked confidential police information to drug dealers. The case was never entered into official Department records, never received the "mandatory" log number that all corruption allegations purportedly receive, never appeared in the officers' personnel file, and was never referred to the Special Prosecutor's Office. Eventually, the case was closed as "unsubstantiated" without any productive investigatory steps ever having been taken. As a result, the officer is still on the job today -- with an integrity record that, until our public hearings, appeared virtually spotless. In fact, because of the concealment of these narcotics corruption allegations, this officer was assigned to a Narcotics Unit -- where she lasted about a month before being transferred for making false statements in connection with a narcotics case.

That this concealment was intentional is not in dispute. At the public hearings, former Chief Beatty conceded that the case was handled improperly and could offer no justification for its place in the Tickler File. Not a single IAD officer denied that this concealment was intentional. For good reason: the files contained a note from Chief Sullivan to Chief Beatty directing, "Don't enter this one in any records until later. Assign to whoever you think is best."

That note reads as follows:

**TICKLER FILE CASE**

**DANIEL F. SULLIVAN**

Chief of Inspectional Services



*Chief Beatty*

*Bob - Don't enter this one  
in any records until later.  
Assign to whoever you think  
is best fit to handle it*

*D.S.*

**Chief Beatty**

**Bob-Don't enter this one in any records  
until later.**

**Assign to whoever you think is best  
fit to handle it**

**D.S.**

Interestingly, shortly after this Commission began its inquiries into the Tickler File, the Department notified us that it had been abolished.

### ***Other Cases Not Sent to Prosecutors or Not Officially Recorded***

The Commission found evidence of other police corruption cases not being recorded in official IAD files or sent to prosecutors.

First, as evidence presented at the public hearings demonstrated, although the Department is supposed to notify each District Attorney about all serious police corruption cases within his jurisdiction and provide daily “logs” of all allegations of serious corruption, we found this was not always done. Our investigation revealed that during 1991 and 1992, IAD failed to provide approximately 230 cases of serious corruption to prosecutors. These cases ranged from officers associating with and protecting drug dealers, to running license plate checks for organized crime figures and conducting unlawful raids.

Second, although all corruption allegations are supposed to receive “C” numbers<sup>14</sup> and an official entry into Department records we found some serious corruption cases that were given “No C” designations by IAD’s commanding officers, including allegations of officers dealing drugs, protecting drug dealers, committing thefts. One “No C” case included an allegation of theft against Alfonso Compres, an officer recently arrested in the 30th Precinct. A “No C” designation means the case does not contain a specific corruption allegation, is for information only, and is not to be sent to prosecutors. Thus, IAD did not forward these cases to prosecutors or enter them in official IAD records. When questioned in a private hearing, an IAD officer who supervised the unit that handled some of these cases, Lieutenant John O’Brien, testified that he did not know why some of them were given “No C” designations, which were approved by IAD commanders.

Third, we also found that IAD all too readily classified police corruption allegations as “police impersonation” cases, and sent them to investigative commands outside Internal Affairs where they typically “died on the vine,” as Sergeant Webber told us. In past years, approximately 10 percent of all allegations that came through the Action Desk were classified “police impersonations,” often on no other basis than the Action Desk officer’s uninformed judgment. IAD classified approximately 1,500 police corruption allegations each year as police impersonation cases.

The Commission’s review of 1,500 police impersonation cases for one year revealed many serious corruption allegations that IAD should not have categorized at the outset as police impersonation cases. Indeed, an early case against a former police officer and convicted murderer, Robert Cabeza, was incorrectly labeled as a police impersonation case. Other allegations classified as police impersonation cases included officers protecting drug dealers, unlawfully raiding apartments, and using drugs – the identical type of wrongdoing

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<sup>14</sup> A “C” number signifies that IAD has classified the allegation as a corruption case requiring investigation. A “No C” designation indicates the allegation does not involve corruption.

the Commission uncovered through its field investigations. The result of these misclassifications: the total “official” number of annual police corruption allegations is minimized, and many police corruption cases are never investigated as such.

Regardless of the motive, quantity or nature of these concealed cases, the critical point is that such systems, practices, and policies were permitted to exist at all – and for so many years. Numerous witnesses from within IAD as well as a variety of law enforcement agencies testified that had an independent oversight entity regularly audited IAD, this abuse of authority would not have persisted.

### **Favoritism Toward High-Ranking Officers**

The Commission also found that IAD applied a double standard when it came to investigating corruption allegations against high-ranking officers. This is no secret in the Department. Throughout our investigation, officers told us that the regular practices and procedures do not apply in investigating ranking officers. We found that this is often true. For example, as Chief Beatty testified in a private hearing, when a high-ranking officer who is the subject of a corruption investigation is questioned as part of the investigation, the normal rules do not apply. Although Department guidelines mandate that the questioning of all subjects be recorded, this is not always adhered to for high-ranking officers. Moreover, such questioning is typically conducted not by the Internal Affairs investigator handling the case, but by an officer of at least equal rank – who might have no other involvement with the case. The potential for abuse is clear.

Two cases in particular illustrate the problems of favoritism and special treatment.

#### ***Scalabrino Case***

The first is the case of Inspector Peter Scalabrino, the former Commanding Officer of the Staten Island Detective Bureau. In that case, Scalabrino was accused of improperly interfering with a homicide investigation involving the son of a long-time friend, who was reputedly a member of organized crime. Allegedly, after meeting the suspect’s father in his office, Scalabrino called in the two detectives assigned to the investigation. He told the detectives that his friend had accused them of harassing his son. At around the time of this meeting, the homicide investigation ground to a halt. IAD initiated an investigation of Scalabrino’s actions and closed it as “unsubstantiated.”

A team of Commission investigators examined this case. They received all of the investigative files and worksheets, and conducted a series of private hearings with the IAD officers who investigated and supervised the case. The Commission concluded that IAD superficially investigated the Scalabrino case. One important basis for closing the case as

unsubstantiated was an interview of the subject by Inspector William Carney. Although documents indicated that the interview had been recorded, no records of that interview were in the case files. When the Commission subpoenaed the actual audio tapes of the interview – which are a crucial part of the investigatory file and case record – we were told the tapes had disappeared. Nor purportedly did any transcript exist.

Our investigators further concluded that IAD never fully investigated Scalabrino's actions, and, in fact focused more on the actions of the homicide detectives – although they were not even part of the complaint. Indeed, the IAD closing report, signed by Chief Beatty, stated that while Inspector Scalabrino might have exhibited poor judgement, he did not act improperly. The two homicide detectives, however, were far more harshly criticized for their performance in the case. The case illustrates what many have said was the attitude among IAD's top commanders: that Chiefs can do no wrong.

### *Simonetti Case*

Another case that illustrates practices of favoritism is the case of Assistant Chief Tosano Simonetti. In December 1993, IAD received an anonymous allegation that Chief Simonetti, the Commanding Officer of the Staten Island Patrol Borough, had abused his authority by improperly voiding the arrest of a campaign worker who was arrested on Election Day for, among other things, unlawfully campaigning within one hundred feet of a polling place and harassing voters in violation of New York State Election Law. Shortly after the arrest, Chief Simonetti called the precinct house and directed that the arrest be voided. The allegation claimed that Simonetti voided the arrest in response to promises of political favors by the candidate on whose behalf the arrested individual had been campaigning. The allegation was closed by IAD as unsubstantiated.

What we found most significant about the case was how the investigation of a high-ranking officer was conducted. Although a case memorandum from the Captain supervising the case, George Templeton, indicated that the investigation had indicated violation of certain regulations in the voiding of the arrest, the case was still closed as unsubstantiated.<sup>15</sup> That final disposition was made only after Chief Beatty conducted a private, off-the-record interview with the subject. There were no witnesses to the interview, no recordings, and no notes summarizing it. After the interview, Chief Beatty drafted a one-page memorandum stating that no Department charges should be prepared – without ever sufficiently providing the details for his conclusion, which differed from some of the evidence in the case file on the validity of the voiding of the arrest.

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<sup>15</sup> In a private hearing, Captain Templeton maintained that he believed that the memorandum was a draft, and that he was not certain whether he or one of his investigators had drafted it. There was, however, evidence indicating that the memorandum was drafted by Captain Templeton, or at his direction.

When Chief Beatty was questioned about these unusual practices in a private hearing, he confirmed that the normal practices and procedures do not necessarily apply to investigations of high-ranking officers. And, most troubling, that he knew before the interview that the case was meritless – based on instinct, not facts. But instinct should, of course, never serve as a substitute for facts and investigations – regardless of who the subject of an investigation might be.

## **VI. THE DEPARTMENT'S FLAWED INVESTIGATIVE AND INTELLIGENCE-GATHERING EFFORTS**

The Commission's evidence indisputably establishes that an anti-corruption system that relies primarily on the receipt of corruption complaints – i.e., a “reactive” system – will grossly underestimate the extent and nature of police corruption today. The reason is simple: most victims of and witnesses to corruption and brutality do not report it to the Department.

Despite this, the Department's investigative and intelligence-gathering efforts were almost entirely reactive. The Department made little effort to gather information about corruption from sources other than complaints. It made no effort to solicit information from informants, the community, or even its own officers who know best about corruption in the Department. Indeed, the Department did virtually nothing to encourage officers or supervisors to come forward to report corruption or to break the code of silence.

### **The Failure to Employ Pro-Active Techniques**

The Department's investigative approach to police corruption investigations minimized the likelihood of uncovering the full extent of corruption. In reviewing hundreds of police corruption investigations, the Commission found that internal investigators routinely failed to use basic pro-active investigative techniques that are routinely relied on in all other criminal investigations conducted by the Department. Internal Affairs failed to initiate its own investigations, as its mandate directed, even when faced with indications of serious corruption as in the 75th and 46th Precincts.

IAD had, in theory, a twelve-person “Self-Initiated Investigation Unit” whose function was to conduct self-generated investigations. Despite its mission, that unit conducted not a single self-initiated investigation for the five years prior to the Commission's creation. When one former commander of this unit was questioned about this blatant neglect, he indicated that no one in IAD ever expected or directed the unit to act otherwise.

Moreover, we found that IAD's investigative system reacted solely to isolated complaints. It did not pursue patterns of corruption and conspiratorial wrongdoing as was

done in investigative commands other than IAD. Of course, such an approach guarantees that the full scope of corruption will never come to light.

### **Failed Undercover Programs: Field Associates and Undercover Operatives**

The highly-touted “undercover” programs that the Department has claimed it had in place to solicit information looked far better in print than in practice. The well-known Field Associate Program – which has the potential to be an invaluable source of intelligence and deterrence – was poorly used and developed. This program purported to consist of hundreds of unidentified officers, who provided the Department with information about corruption in their commands. We found the Department dedicated few resources and little energy to cultivating Field Associates and developing their information to fight corruption.

Most important, we found that the Department often failed to even react to the information Field Associates provided at great personal risk. In the 30th Precinct case, for example, a field associate provided the Department with detailed information about extensive corruption in the precinct, and nothing was done about it. In fact, on one occasion he even gave IAD a sensible investigative plan to apprehend a group of cops who were raiding drug locations. He was told that IAD officers could not implement his plan because they did not have the resources and because they believed it was too dangerous.

IAD’s Undercover Operative Program, which purported to place officers in corruption-prone precincts to gather and develop information on corruption and eventually testify against corrupt officers, was little more than a “paper program.” Our investigation found that IAD inflated the “official” number of active undercovers, that many were never placed in corruption-prone precincts, that the program was more interested in petty misconduct than serious corruption, and that over the program’s ten-year existence, it provided information which led to the substantiation of four cases – two of which were for charges of minor misconduct.

But most troubling, we found that the undercover program often buried information about serious corruption. Certain documents from the Undercover Operative Unit, as well as the testimony of the unit’s former commanding officer, Lieutenant John Becker, and information from a former IAD undercover operative, revealed that information about serious corruption was often never investigated or even officially recorded – despite the fact that it came from one of the most reliable sources existing: fellow officers whom IAD commissioned to gather such information.

As a result of these intelligence-gathering deficiencies, the Department’s official statistics on corruption reflected merely the tip of the iceberg, and inevitably its investigative efforts missed much of the problem.

## The IAD "Action Desk"

The Action Desk serves as IAD's central in-take center for all police corruption allegations. It is where most of the 2,700 police corruption allegations are reported each year, typically by telephone. The Action Desk was repeatedly described to us as the "nerve center" of IAD. Many of IAD's top commanders, including Chiefs Beatty and Sullivan, testified that it was a vital component of an effective corruption control system. They also agreed that a poorly operating Action Desk, especially one that did not effectively solicit information from complainants, would be tantamount to "hindering" and even "killing" police corruption cases before they began.

Despite the importance of the Action Desk, our investigation revealed that for years it routinely operated in a manner that minimized the receipt of corruption information – and actually discouraged complainants from providing information.

To assess the severity of these deficiencies, the Commission conducted an audit of the Action Desk's performance. A team of our investigators conducted a series of twenty-five tests in which they called the Action Desk at various times of the day, allegedly to report serious police corruption. To assess the Action Desk officers' efforts to solicit vital information, the investigators told the Action Desk officer that they could not decide whether to provide their names or their information.

The former Commanding Officer of the Action Desk, Sergeant Steven Webber, testified that a critical responsibility of Action Desk officers is to aggressively solicit as much information as possible from complainants, especially information on the complainant's name, subject's name and nature of the allegation. If a complainant says he or she does not know whether to provide the information, the Action Desk officer is supposed to encourage the caller to provide as much information as possible. Without obtaining such information, Webber testified, vital information could be forever lost.

Despite this, in the majority of cases, the Action Desk officer made no effort to encourage Commission investigators to provide even basic information like the complainant's name, the officer's name and precinct, or the type of corruption involved. The Action Desk officer often spoke in harsh tones that would encourage a caller to hang up. On some occasions, investigators were put on hold for long periods of time.

The following transcripts from recordings of a Commission investigator calling the Action Desk make these deficiencies clear:

IAB Officer:

Internal Affairs ----

Commission Investigator:

Ahh, yes, ah . . . I'm calling because ah . . . I have some information about some serious corruption by ah- by two cops, but ah- you know I'm trying to decide if I should tell you- you



know, to tell you people about it or not. I don't know if it's gonna be worth it or not.

IAB Officer: Well, that's your decision.

Commission Investigator: Ahhh. I don't know. I-you know, I just can't decide what- what to do, I mean.

IAB Officer: Well why did you call?

Commission Investigator: Because . . .

IAB Officer: You called to tell me that you can't make up your mind whether you wanna give us information or not?

Commission Investigator: I want to -- what you think I should do?

IAB Officer: No, I can't advise you. This is your choice.

Commission Investigator: Now if I wanna - if uh- if uhm- if I wanna stay anonymous, you know, is- that better or, or . . .

IAB Officer: Excuse me?

Commission Investigator: If I wanna stay anonymous, you know . . .

IAB Officer: That's your choice also.

Commission Investigator: Then ah- I don't know. I just don't know.

IAB Officer: Well when you make up your mind, if you decide to give us any of the information then call back, okay? I can't stay on the line while you try to make up your mind. We have other people calling here, who do wish to give a complaint and I have to take it, okay? I can't stay on- you're holding up the line. Either you're gonna give the information or you're not going to give it. Do you understand?

Commission Investigator: Yes, yes. I understand.

IAB Officer: Okay so, when you make up your mind, if you're going to give it then you can call back, okay, but right now you're holding up a line.

Commission Investigator: Okay. (March 5, 1993. Transcript of call)

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IAB Officer: Internal Affairs ---

Commission Investigator: Yes, Hi, Mmmm . . . I have some information regarding ah, a boss ah, in the Police Department and ah . . .

IAB Officer: A what?

Commission Investigator: A boss. Mmmm . . . he's Mmmm . . . like a a big boss . . .

IAB Officer: Right.

Commission Investigator: . . . in the Police Department. I'm just like, trying to decide, Mmm. . . I don't know what to do really ... It's just, I haven't been able to decide what I should do with the information. It has to do with Mmmm . . . him - I know he's doing so many bad things. Mmmm . . . I just don't know . . . Ahh . . . what do you think I should do?

IAB Officer: Oh, I don't know. You have to do whatever you feel, is right. Whatever you think, you know . . . It's up to you.

Commission Investigator: I know he's like heavily in corruption and -- and I know his name and everything. I just - I just don't know.

IAB Officer: Well when you have the information, ahhh, let me know if you wanna decide, whenever you decide, gimme a call. Call this number anytime.

Commission Investigator: I haven't decided if I should remain anonymous.

IAB Officer: What?

Commission Investigator: I- I- could I remain anonymous?

IAB Officer: Yeah.

Commission Investigator: I think I'd feel more comfortable if I don't give my name. I know his name, I-I just-I'm just not sure if I should disclose all this information.

IAB Officer: Well, you know, I mean I can't make you. Ah hold on a minute, I got another call. Hold on.

Commission Investigator: Okay.

PUT ON HOLD 6:55 minutes

IAB Officer: Hello?

Commission Investigator: Yes.

IAB Officer: Make up your mind yet?

Commission Investigator: No, No. Ah, I was hearing like a beep. What is that?

IAB Officer: That's a tape recorder.

Commission Investigator: Oh because - does that mean I could be identified?

IAB Officer: Ahh, not really, I mean there's voice identification. I mean ah, there's a lotta ways, if you wanna be identified. They could ah . . . press a button, you find out what ah number you're calling from. There's that and there's voice identification, ya know. Hold on a minute. I got another phone call, all right.

**PUT ON HOLD 3:35 minutes**

IAB Officer: Hello?

Commission Investigator: Yes.

IAB Officer: Make up your mind yet?

Commission Investigator: I- I still don't know what I should do.

IAB Officer: Well can you call me back when you make up your mind because I have other phone calls coming in here. I'm pretty busy. **TOTAL TIME PLACED ON HOLD 10:30 minutes.**  
(January 9, 1993. Transcript of Call)

Moreover, despite the diverse population of New York City, the Action Desk was usually not capable of taking complaints in languages other than English. When our investigator attempted to report corruption in Spanish, the Action Desk officer told her, "No, no Spanish here. Call back 'mañana.'" When she called back the next day she was similarly instructed to call back "mañana." The IAD Action Desk was one of the few complaint in-take centers in the entire Department that was unable to accept complaints in languages other than English.

Sergeant Webber reported that the Action Desk's poor performance meant that potentially crucial information on police corruption was routinely lost. He agreed that such a state of affairs could not have existed had an outside entity regularly reviewed the Department's intelligence gathering efforts. The Commission is similarly convinced.

## **VII. THE DEPARTMENT ABANDONED ITS RESPONSIBILITY TO CHANGE THE CULTURE OF CORRUPTION**

We found a police culture that often tolerates and protects corruption. We also found that the Department completely abandoned its responsibility to transform that culture into one that drives out corruption. It made little effort to change the attitudes that foster corruption among the rank and file, supervisors or commanders; and it made little effort to convince anyone that its occasional pronouncements on integrity were more than obligatory rhetoric.

The Department also has done little to attempt to penetrate the wall of silence, although it is one of the major barriers to identifying and uncovering corruption. The Department never aggressively solicited information from its members. It did not reward courageous officers who came forward with valuable information; or penalize those who failed to report evidence of widespread or serious corruption about which they had personal knowledge. And it did nothing to try to educate its members as to why reporting and not tolerating corruption is essential to the Department and to them.

Indeed, we found that the first time the Department's top managers made an affirmative effort to solicit any information on corruption from its members was when this Commission attempted to do so. In July 1993, the Commission sent a letter to all members of the Department, urging them to come forward with any information they might have about corruption. That letter was to be distributed to all members of the Department with their paychecks. We later learned that another letter was attached to the front of the Commission's letter: a statement from former Police Commissioner Raymond Kelly, reminding all members of the Department about their obligation to report all information on corruption to Internal Affairs.

The Commission also found that the Department's practices actually discouraged members from coming forward. Many officers told us that they believe the Department did not really care if they came forward with information about corruption -- and some went further and told us they did not believe the supervisors wanted its members "ratting" on each other.

This belief has some justification. Although officers took great risks in reporting corruption, no special protections were afforded to them. Indeed, the evidence indicates that police officers who reported corruption had fewer confidentiality protections than criminal informants. It was not, for example, surprising for information about officers who reported corruption to be leaked to their precinct.

Nor did the Department make any effort to educate its recruits or veteran officers about the Department's commitment to integrity, and officers' duty to help fight corruption. We found that integrity training at the Police Academy often relied on outdated materials

from the Knapp Commission era, focused on corruption hazards like gambling pads that no longer exist, and was presented as an appendage to other “more important” topics. The integrity film that was shown to thousands of recruits for years all too clearly epitomized the Department’s lack of commitment to anti-corruption: a tattered, black and white film from the 1970s that focused on issues of little relevance to cops on the streets today.

Integrity training was also taught primarily by IAD officers – some of whom had little experience in other commands within the Department. This was a mistake. Placing integrity training solely in the hands of Internal Affairs sends the wrong message to the Department about corruption controls. It fuels the perception that uprooting corruption is primarily the responsibility of Internal Affairs – rather than the personal responsibility of every member of the Department. It fuels the perception among officers and supervisors that corruption is Internal Affairs’ problem – and not theirs. In sum, it hinders the acceptance and implementation of accountability and integrity principles that are vital to successful corruption controls.

In-service integrity training was similarly ineffective. We found that some “required” in-service integrity training was never even provided. What was offered was typically viewed by officers as boilerplate or mere prattle. In sum, we found that integrity training at all levels did little to enhance the integrity of members of the Department. It did little to encourage officers to resist the temptations of corruption. And, perhaps most important, it did little to transform a culture that tolerates and protects corruption into one that supports and rewards honesty and integrity.

Finally, the Department’s action – or inaction – did much to nurture the climate of corruption. The collapse of the anti-corruption apparatus does more than minimize the likelihood of uncovering corruption, it fuels it. It sends a powerful message to officers of all ranks that the Department does not care about corruption; does not care about supervisors’ integrity duties; does not care about police corruption investigations; and does not care to enlist the Department’s vast majority of honest officers in the fight against corruption. And it does nothing to insure that officers’ commitments to their Department are greater than their loyalties to their corrupt colleagues. Until the Department undertakes aggressive efforts to change these attitudes, they will continue to grow and to block integrity efforts.

The Department has begun to take its first steps in recent history to transform this culture. It is essential that these not be the last.

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Many have suggested that such a number of simultaneous failures of the Department’s corruption controls are no mere coincidence. We believe there is some truth to that. Ignorance of the full extent and nature of police corruption is perceived to protect

the Department: it enables the Department to avoid acknowledging that police corruption is a serious problem in our City, enables it to deny anti-corruption efforts vital resources, and it minimizes the likelihood of uncovering widespread corruption.

The failures of the Department's corruption controls reflect the inevitable consequence of allowing the police to police themselves alone. Many of the deficiencies could have been identified and, to a large extent, prevented or remedied years ago if an independent entity had been aggressively auditing these anti-corruption systems. More important, many of these failures would never have occurred if the Department knew its anti-corruption systems would be subject to independent outside scrutiny and review – the Department knows better than any other organization how best to police itself when it is forced to do so. The challenge we face is to create a long-term mechanism that encourages the police to successfully police themselves and to strengthen the fight against corruption on all fronts throughout the Department. We believe the internal and external reforms that follow will accomplish that objective.

## **CHAPTER FIVE**

### **RECOMMENDATIONS FOR REFORM OF THE DEPARTMENT'S CORRUPTION CONTROL POLICIES AND PROCEDURES**

**"The People of New York City must know they can count on the members of their Police Department to be as honest as they are brave and able. They must know they can count on the Police Department to track down and drive from our ranks those who violate their oath and break the law."**

**-- Former Police Commissioner Raymond Kelly  
Testimony before the Mollen Commission  
October 6, 1993**

The Department must remain primarily responsible for successfully policing itself and keeping its own house in order. It must "track down and drive from" its own ranks officers who violate their oath and the law, as former Commissioner Raymond Kelly testified at our public hearings. We believe that this requires a dual-track approach: reform of the Department's internal systems for preventing and uncovering corruption, and an external, independent monitor to insure those systems are successful. The independent monitor is discussed in Chapter Six. Our recommendations for internal reforms are discussed here.

During the tenure of the Commission, the Department has begun to take significant steps to strengthen its corruption controls. The bulk of these reforms, however, has focused on improving and expanding detection and investigative efforts. While such reforms are essential, the Commission believes that the effective control of police corruption must focus on prevention as much as detection; on the root causes and conditions of corruption as well as its symptoms. Police corruption is not a problem that will be solved solely by successful investigations and prosecutions. It is a problem that must be addressed on many fronts and in the daily operation of the Department, including:

#### *I. Police Culture and Management*

- Commitment
- Recruitment and Screening
- Recruit and In-Service Performance Evaluations
- Integrity Training
- Corruption Susceptibility and Police Management

- Police Unions
- Drug Testing
- New York City Residency

## *II. Command Accountability*

- Supervision
- Enforcement of Command Accountability

## *III. Internal Investigations*

- Internal Affairs Operations
- Recruitment of Qualified Investigators
- Intelligence-Gathering Operations
- Investigative Approach
- Organizational Structure
- Command Liaisons
- Civil Rights Investigations

## *IV. Heightening Deterrence and Sanctions*

- Discipline
- Department Advocate's Office
- Disability Pensions

## *V. Community Outreach*

- Community Policing and Community Outreach

It is these areas that are the focus of our internal reform recommendations. While the Department has begun to adopt and implement a number of these reforms during the tenure of this Commission, our objective is to guarantee their long-term success, and to set forth the full scope of reforms we believe are necessary to combat corruption and the culture that tolerates and protects it.



## **I. POLICE CULTURE AND MANAGEMENT**

### **Commitment to Integrity**

At the core of the Department's corruption control reforms must be an unwavering commitment to insure their success now and in the future. Without such commitment, no anti-corruption system, no matter how well devised, has a chance to succeed. The abysmal state of the Department's corruption controls that we found existed over past years should provide a lasting lesson of the absolute necessity of such commitment – and a lasting lesson about the consequence of its absence.

Commitment to integrity cannot be just an abstract value. It must be reflected not only in the words, but in the deeds, of the Police Commissioner, the Department's top commanders, and the field supervisors who shape the attitudes of the rank and file. It must motivate all of them to send an unequivocal message throughout the Department that corruption will not be tolerated. It must make the consequences for breaches of integrity the rule, not the exception. It must result in providing integrity controls with sufficient resources and high priority in the Department's operations. It must result in all officers understanding that their loyalty to the Department's integrity must be greater than their loyalty to corrupt colleagues.

### **Recruitment and Screening**

The integrity of the Police Department is related to a large extent on standards that insure its new recruits are honest and able. Rigorous admission standards help accomplish that objective. They also send a message throughout the Department about the absolute sincerity of the Department's commitment to integrity and the special position police officers occupy in our society. Cops must know that not everyone can become a New York City police officer if we want them to have pride in their profession and their Department.

That is not always the case. There is a widespread perception among officers of many ranks that hiring standards have fallen dramatically over the years – and that virtually anyone can become a New York City police officer.

To assess the adequacy of the Department's recruitment and screening standards and procedures – and to determine whether we could identify profiles of corruption-prone recruits – a team of Commission investigators conducted an extensive analysis of the personal backgrounds of approximately four hundred officers dismissed or suspended for

corruption or serious misconduct over the past six years.<sup>16</sup> The analysis was based on information from the officers' personnel files, the Department's background investigations, and recommendations and evaluations at the time of application. We also examined for comparative reasons general demographic and background information of random samples of officers and conducted interviews with those responsible for various aspects of recruitment and screening. We are aware of no other analysis of this magnitude ever before conducted by the Department in this area.

Applying a degree of scrutiny absent from many background investigations done by the Department, we concluded that approximately 20 percent of the officers suspended or dismissed should never have been admitted into the Department. This is based merely on information available in these officers' personnel files at the time of hiring. Numerous others should never have been admitted until certain problem areas flagged in their application, which had been ignored, were investigated. For example, 24 percent of the officers dismissed or suspended had a prior criminal arrest record. In many of those cases, there was sufficient information from witnesses, victims, arresting officers, and other sources to call into question the character and ability of the officer – but the officer was admitted without pursuing these leads. Many other officers were admitted despite youthful offender adjudications on charges as serious as robbery, narcotics and weapons possession, and assault. One officer, for example, had been arrested and indicted for three separate robberies and pleaded guilty to armed robbery in the first degree which was subsequently converted to a youthful offender adjudication. When asked in his application why he committed these crimes, he readily admitted that he committed the robberies for the “thrill” and “excitement” of robbing someone. Eleven years later, he was dismissed for theft.

Overly lax admission criteria are partly responsible for this problem. For example, an applicant with a youthful offender adjudication for a felony is eligible to become a New York City police officer. As a result, applicants with felony assault, weapons, robbery or narcotics charges resulting in either misdemeanor convictions or youthful offender adjudications became police officers despite the underlying gravity of their conduct, only to be dismissed or suspended years later for corruption. Since the Department admits applicants as young as twenty years old and therefore has only a two-year time span in which to evaluate an applicant's adult criminal history, it must take youthful wrongdoing into greater account in admission procedures.

The Commission also found that the Department has routinely admitted applicants to the Department – and put them on the streets as sworn officers with guns and shields – before their background checks are complete. Eighty-eight percent of the officers in our study, for example, entered the Police Academy before the completion of their background

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<sup>16</sup> The total number of officers in the study was four hundred thirteen. Fewer officers are sometimes referred to for particular aspects of the study. This is because for certain areas we examined, information on all the officers was not available.

checks – and thus prior to a reliable determination that they were fit to be police officers. Approximately one-third of all officers were placed on the streets, before completion of their background investigations. Thus, there is a wealth of vital information that is typically unknown when an officer is given a gun and shield. For example, investigations into an applicant's work history and behavior patterns, including interviews with relatives, neighbors, friends, employers and others, are often not completed until after the applicant becomes a sworn police officer. There is rarely an opportunity, therefore, to check prior job performance, attendance records, gaps in employment or unusual behavior patterns – all important indicators of a person's fitness to become a police officer.

This is particularly troublesome because by the time recruits have graduated from the Police Academy and become sworn members of the Department, much time, energy and money has been invested in them. Consequently, the focus of the incomplete background investigations shifts from the question of whether the applicant is qualified to be a New York City police officer to how the Department could justify dismissing a sworn police officer which carries a heavier burden of proof.

The Commission also found that even “completed” background investigations are often hastily conducted. Certain potentially problematic information is not pursued and inquiries are often superficial. Ironically, investigative standards that would not be accepted in other commands in the Department are standard operating practice when it comes to investigating potential members of the Department.

Other tools exist to strengthen background checks which the Department currently disregards. For example, unlike many law enforcement agencies – including the New York State Police, Nassau and Suffolk County Police Departments, and the Federal Bureau of Investigation – the Department does not subject applicants to polygraph examinations for certain topics. The Department, therefore, neglects a reliable means to ascertain whether an applicant has lied about such critical matters as drug abuse, psychological problems, past employment problems, or violent conduct – and whether certain areas should therefore be further investigated before acceptance. In fact, the Department rejected some applicants only after it learned that other police departments had rejected them on the basis of admissions made during their required polygraph examinations. For example, one officer – who had already been on the street for a year – was ultimately dismissed after the Department learned that the Nassau County Police Department had rejected him after he admitted to smoking marijuana approximately 1,600 times on a required polygraph test.

In addition, although personal drug use is a widespread problem among young adults today, the Department conducts no random – unannounced – drug tests of applicants. They receive only the scheduled health services test which gives applicants sufficient advance notice – and thus ample opportunity to cleanse themselves of any trace levels of narcotics. There is no reason to believe that the Department's applicant pool should significantly differ from the general population studies on drug use. Indeed, our study showed that

approximately 40 percent of all dismissals and suspensions over the past five years were drug-related, 26 percent for failing a drug test. Given the drug-related temptations and opportunities that regularly confront officers, thorough screening efforts for drug abuse are especially critical.

Although effective screening of applicants is a critical component of anti-corruption efforts, we found that applicant investigators were more committed to processing paperwork than conducting thorough background investigations. The Department blames these delays and oversights on the heavy workload of applicant investigators. This may be so, especially since in the last two years alone, 4,000 new officers have graduated from the Police Academy -- and over 2,000 more will graduate in August 1994. But larger classes and heavy workloads do not justify sacrificing thorough screening and background investigations of Department applicants. No applicant should take the oath of a police officer before a thorough background investigation is completed by the Department. If this is not feasible, then the Department should consider contracting a portion of its background investigations to private investigative companies, as do other law enforcement agencies such as the United States Drug Enforcement Administration and the United States Customs Service.

Background investigations and admission criteria must focus more on the applicant's likelihood to be an honest officer, not merely on the minimum qualifications necessary to do the job of policing. While the evidence suggests no typical profile of a corruption-prone officer, it does suggest that certain factors sometimes indicate an officer's ability to better withstand the temptations of corruption.

For example, our study revealed that officers with a prior felony arrest record are three times more likely to become corrupt than those without such records. Six percent of the dismissed or suspended officers in our study had prior felony arrest records, as compared with 2 percent from the general Department population. This is a significant finding. It shows the need to subject these candidates to a heightened level of scrutiny in their background investigations before admitting them to the Department.

Moreover, numerous supervisors told us that older recruits and recruits with a college education or military experience are often less susceptible to corruption, have fewer absences, and achieve more rapid advancement. Many have suggested that this is because these factors often reflect a more mature, experienced and disciplined applicant. Since the minimum age requirement for New York City police officers is twenty years of age, some officers have never held a job before joining the Department. They therefore often lack the maturity, confidence and experience needed to resist peer and other pressures leading to corruption. Education and military experience also are often linked to fewer corruption incidents, not only because of what educational or military experience provides, but because the successful completion of these endeavors itself reflects a discipline, character, and level of ability.

To keep the Department's applicant pool as diverse as possible, however, minimum educational requirements ideally should be raised concomitantly with expanded opportunities to satisfy those requirements. Such opportunities already exist. The City University of New York - N.Y.P.D. Cadet Corps ("Cadet Corps") and the Police Department's own Police Cadet Corps ("Police Cadets") currently provide promising programs that integrate a college education and police-related training for police applicants. The CUNY Cadet Corps is sponsored by the City University of New York and is administered by the John Jay College of Criminal Justice in cooperation with the Police Department. It is a two-year program that allows applicants to earn their Associate of Arts degree, while participating in special supplemental classes and internships related to police work and community service. The Police Cadet program is administered by the Department and offers a similar program for those applicants who have completed two years of college toward earning their Bachelor's Degrees.

In our view, these programs produce not only better educated officers, but officers more aware of community needs and problems related to police work. When the Cadets complete their education, those who pass the final Cadet examination are admitted into the Police Academy with their degrees already in hand. These programs also provide other advantages. First, they offer the Department a two-year period of evaluation to screen out individuals poorly suited for police work.

These programs have also been highly successful in recruiting minority police recruits. Currently 59 percent of the Cadet Corps are African-American or Hispanic and more than 37 percent are women. The Police Cadet Corps has been similarly successful in recruiting minority candidates. These programs therefore offer a mechanism already in place to raise both the educational standards and opportunities of police recruits from a diversity of backgrounds.

The Commission believes that raising certain hiring standards and improving applicant screening will have a considerable impact on reducing corruption and enhancing pride in the Department. We therefore make the following recommendations:

- Raise the minimum entry age requirement from the current 20 years of age to 22 years of age.
- Raise the minimum education requirement from a high school diploma to a two-year college Associate Degree. The Department should support the CUNY/NYPD Cadet Corps Program and the New York City Police Cadet Corps Program as a primary means to satisfy that requirement and raise the education level for recruits. This will require expanding the Cadet programs for police recruits. Cadet Corps and Police Cadet graduates who have received their Bachelor or Associate Degree before reaching the age of 22 should be eligible for immediate entry to the Police Academy.

- The Applicant Processing Division must recognize concern for integrity as a principal criterion for the selection of recruits.
- Require all applicants to submit to a polygraph examination on selected topics before hiring, as do other law enforcement agencies, to identify potential problem areas that should be investigated before acceptance.
- Require random, unannounced drug testing for all applicants rather than administering drug tests as part of pre-scheduled recruit health examinations.
- Require that background investigations be fully completed before a recruit enters the Police Academy. The Department should allocate sufficient resources to insure thorough background investigations are conducted for the number of recruits to be hired. The Department should examine the benefits of employing private entities to conduct thorough and timely background investigations, as do other law enforcement agencies.
- Make misdemeanor convictions based upon felony arrests for violent and drug-related crimes and felony youthful offender adjudications for violent and drug-related crimes presumptive hiring disqualifications based on grounds of moral fitness, unless the background investigation reveals circumstances that do not justify disqualification.
- All candidates with a prior felony arrest, regardless of the disposition, should be subject to a heightened level of scrutiny by applicant processing investigators.
- Amend New York Criminal Procedure Law Section 720.35(a) to allow the Department statutory access to all official records and papers relating to an applicant's youthful offender adjudication, to permit adequate evaluation of a candidate's fitness.
- The Department's Candidate Review Board should be required to issue a statement of facts and conclusions when it rules to approve an applicant who has been rejected by the Applicant Processing Division, which conducts the background investigations.
- Expand recruitment efforts from the military services and administer Department entry examinations on military bases.
- Require applicants to furnish tax returns and other financial records of applicants to provide the basis for an analysis of the applicant's financial condition for possible use in future investigations.

## **Recruit And In-Service Performance Evaluations**

As the Knapp Commission recognized a generation ago, often the most reliable predictors of an officer's performance first appear in recruit training and during the eighteen-month probationary period.<sup>17</sup> The probationary period should therefore be used as an active component of the screening process. Yet, in the past, the Department rarely used this period for effective screening. Recruits or probationary officers are seldom dismissed except for the most flagrant misconduct, which of course defeats the whole purpose of "probation." In the Commission's study of 314 officers dismissed or suspended for misconduct, forty-eight of them -- 15 percent -- exhibited poor performance at the Academy.

If the Department makes its evaluation standards more rigorous for recruits and probationers, and dismisses those who exhibit a lack of fitness or ability during these periods, it could winnow out an appreciable number of ineffective and potentially corruption-prone police officers. By doing so, the Department will not only raise the caliber of its officers, but it will underscore its message that only the finest may become New York City police officers.

But the Department's screening process should not end after an officer's probation period expires, as it currently does. In-service performance evaluations for non-probationary officers also afford the Department important opportunities to identify, screen and, where appropriate, dismiss problem officers. Despite this, evaluations are almost never used for this purpose. They are boilerplate forms that simply litter personnel files. We recognize that performance evaluations pose special problems. They are necessarily subjective and include the evaluator's personal judgments of the officer's skills, efficiency, and personal traits thought to be crucial for good performance. Therefore, performance evaluations are only as good as the evaluators who write them. For example, at the height of his corrupt activities in 1987, Michael Dowd received an evaluation that described him as having "good career potential" and as a "role model" for other officers. But performance evaluations have enormous potential to help identify problem officers. If the quality and usefulness of evaluations is to improve, the Department must hold evaluators, at all levels, accountable for their performance evaluations. Of course, no one is infallible. But evaluators must be held accountable for the honesty of their judgments and the reliability of the basis for the evaluations they endorse. We therefore make the following recommendations:

- The Department should use an officer's eighteen-month probationary period as a rigorous screening period, to evaluate, identify and reject unqualified officers.

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<sup>17</sup> The probationary period consists of six months of Police Academy training and twelve months in a field training unit.

- The Department should actively identify and screen problem officers throughout their careers and dismiss those with unacceptable performance records.
- Supervisors should be held accountable for making reasonable efforts to provide reliable and accurate performance evaluations, which should include an assessment of corruption indicators pertaining to the officer. These evaluations should be used to help police commanders identify problem officers, whose performance should be closely monitored to determine fitness for the job.

### **Integrity Training**

Today's police officer faces temptations of corruption that require thorough training and a strong code of ethics. The Commission believes that effective training and education are critical tools for shaping officers' attitudes and motivations, generating lasting pride in their profession and their Department, and inculcating the professional and personal values necessary to create more corruption-resistant police officers.

Over the last decade, the Department's training and education programs have failed to achieve these goals. The vast majority of police officers we interviewed harshly criticized the quality of anti-corruption training they received at the Police Academy. Most officers found that their instructors were mediocre; that they lacked teaching abilities and practical experience; that they relied almost exclusively on materials from outdated lesson plans with little relevance to the challenges facing officers today; and therefore lacked credibility with their classes. They also reported that the integrity training itself was unrealistic, even comical, when compared to the opportunities and nature of corruption today. Until recently, corruption training at the Academy was still based on the kind of corruption uncovered during the Knapp Commission. To cops facing the daily temptations of the drug trade, training about gambling "pads" and vice rackets has little relevance, and sends a clear message about the Department's lack of interest in or knowledge of integrity matters.

Even worse, many officers told us that it was at the Academy where they first became immersed in the attitudes of a police culture that promote and protect corruption. In both public and private hearings, officers testified that interaction with instructors and other recruits at the Academy began their acculturation into the dynamics of police culture and the perceived necessity of self-protection and tolerance for police misconduct. Of course, it is critical that this change. Integrity training must enhance the resolve of each officer to resist the seduction of corruption and to make every effort to remove from the job those who fail to resist. That resolve must start with recruits at the Police Academy.



But it cannot stop with recruits. It must be brought to the officers already on the beat, in radio cars, and special squads who know the hard realities and temptations of police work. The Department must therefore use its field training and in-service programs to penetrate the commands and assignments where resolve against corruption is most immediately needed. Despite its critical importance, the Commission found that the Department offers little or no integrity training in field and in-service training programs. Indeed, field training instructors -- who are supposed to serve as monitors and role models for recruits during their six-month field training program -- sometimes promote attitudes that foster corruption and rarely make integrity an important priority in police training.

The message about integrity's importance must not come solely from Internal Affairs. To truly spread the enforcement of corruption controls, officers must hear that message -- convincingly -- from respected supervisors in the field as well as the Department's "corruption fighters." This will also help reduce the division between Internal Affairs and the rest of the Department.

Recently, the Department has begun to reform its recruit and in-service training programs and policies. For example, Police Commissioner Bratton has called for a civilian board of directors to oversee the curriculum and faculty of the Police Academy. Adding civilian oversight to the Police Academy could help reduce police insularity and attitudes that often lead to corruption and corruption tolerance. The Police Academy faculty should also be supplemented with civilian experts who will contribute additional insights.

As the Department begins to reshape its training programs, it must keep in mind that anti-corruption cannot simply be buried under other subjects taught at the Academy and in the field. It must have a high priority in the Department's scale of values -- and that fact must be communicated to the rank and file. Corruption can no longer be perceived as simply a matter of academic interest or a required appendage to the more "important" policing matters taught at the Police Academy or in the field. The Department can no longer regard corruption solely as a matter of individual conscience. Its training programs must treat corruption as an occupational hazard and Departmental problem. Training must expose the harsh realities of the nature and extent of police corruption today. It must inform recruit and veteran officers alike about specific corruption hazards and the reasons and means to avoid them. The Department must candidly tell officers that there have been corrupt police officers, that a number of them may still be on the job today, and that they are responsible for helping the Department to root them out.

Officers must also be taught to fear the consequences of corruption. They must learn about the devastating impact of police corruption on them, their families, the Department, and society at large. And they must be convinced -- not just taught -- about the Department's intolerance of corruption and its desire and ability to uproot it wherever it exists.

At the same time, Department training must instill in officers a deep sense of pride in their profession and their Department. They must be taught the great history and traditions of the New York City Police Department and come to identify their pride and their personal reputation with the professional reputation of the finest Police Department in the nation. All of these efforts must be repeated and reinforced regularly throughout an officer's tenure. Only then can officers' loyalty to the Department be greater than their loyalty to corrupt fellow officers. The principal goals of the Department's training programs must be to instill values of high integrity in new officers and to reinforce these values during the course of every officer's career. Ultimately, it is the integrity of the individual officer and his commitment to the integrity and honor of his Department that will best protect the Department from corruption.

During the course of our studies and interviews with law enforcement officials, we found that the Academy of the Federal Bureau of Investigation is renowned throughout the world for its outstanding scholarship and instruction in law enforcement. It graduates agents who take lasting pride in their profession and have a life-long commitment to upholding the reputation of their agency. With the necessary resources and support, there is no reason the Academy of one of the finest police departments in the world cannot achieve the same results.

With these considerations in mind, the Commission recommends the following reforms in police integrity training and education:

- The Department should require in-service integrity workshops for all officers at regular intervals throughout their careers. The training sessions should be organized as problem-solving workshops that make participants explore corruption hazards, confront their own attitudes about corruption, and reach conclusions about how to deal with corruption and the pressures of police culture in connection with corruption and corruption tolerance.
- The Department should require special integrity training workshops for all newly promoted supervisors and commanders that focus on a variety of anti-corruption issues including their personal responsibility and accountability in corruption matters, and how they can prevent and identify corruption-related problems.
- The number of hours devoted to integrity training at the Police Academy should be increased and integrated in other areas of training so that it is perceived as an important part of the curriculum, rather than a required appendage to "real" police training.

- Police Academy and In-Service integrity training should address issues of brutality and other civil rights violations, which have traditionally been ignored in integrity training.
- Police Academy and In-Service Integrity training should focus on confronting and solving real-life corruption problems with particular emphasis on overcoming corruptive features of police culture, particularly the code of silence and insularity from the public.
- Police Academy and In-Service Integrity training should be realistic and vivid. The lecture method of instruction must be supplemented with interactive methods such as workshops, group discussions, and role playing to increase the impact and believability of corruption hazards police officers face.
- Police Academy and In-Service Integrity courses should include presentations of real evidence of corruption, such as tape recordings, video recordings, and other material evidence gathered in internal investigations.
- Police Academy and In-Service Integrity training should include personal or recorded presentations by former police officers convicted or dismissed from the Department because of corruption. A central message should be the devastating consequences of corruption on these officers, their families, and the Department as well as the importance of reporting corruption.
- Police Academy and In-Service Integrity training should include instruction on real-life profiles of both corrupt and honest officers to demonstrate how officers should and should not behave when presented with opportunities for corruption.
- Police Academy and In-Service Integrity training should also focus on deterrence, including the likelihood of detection, certainty and severity of sanctions for serious corruption, as well as penalties for those who fail to report it.
- The Police Academy should require a course in the history and traditions of the New York City Police Department designed to develop pride and loyalty in the Department.
- Police Academy and In-Service Integrity instructors, including Field Training Unit supervisors, must be selected on the basis of their abilities to teach and their experience and reputation within the Department. These instructors should include high-ranking members of IAB, and should be of a caliber that

will be respected and taken seriously by their audience. Integrity training, however, should not be exclusively conducted by IAB.

- The Department should use civilian faculty to conduct segments of the police training currently provided at the Police Academy, in subjects such as Law Social Science, and Ethics. This would expose recruits to non-police viewpoints, help civilianize the learning process, and minimize in-bred group acculturation.
- The Department should seek to avail itself more fully of the excellent resources and facilities available at John Jay College of Criminal Justice.
- The Department should institutionalize regular focus group discussions with officers and supervisors to keep abreast of attitudes and perceptions regarding corruption and brutality. These findings should be incorporated into Academy and In-Service integrity training.
- A recruit mentor program should be established to allow and encourage recruits and new officers to have access to experienced, honest and respected officers selected for this program. The program should be structured to encourage participation on a confidential basis by any officer with integrity concerns.
- The Field Training Program for probationary officers should be strengthened and integrity should be made an important component of that training.
- The Police Commissioner should take a personal role in addressing recruits and veteran officers on matters of integrity and the Department's commitment to fighting corruption, including personally addressing recruits and newly promoted supervisors, and periodically sending videotaped messages to field commands.

### **Police Personnel Management**

Over the course of the Commission's inquiries a number of issues of police personnel management have stood out as conditions that either promote corrupt behavior or fail to properly acknowledge officers for their integrity. One of these issues is the steady tour/steady partner policy; another is the perception among certain officers that a number of police commands are used by the Department as "dumping grounds" for incompetent and undisciplined officers.

Most officers we interviewed believe, and our field investigations have confirmed, that steady tours have a divisive impact on a precinct and cause intensely loyal cliques to emerge among officers who constantly work and socialize together. We have observed, and many officers agree, that steady tours intensify the insularity that facilitates corruption.

Officers placed in commands they believe to be a dead end to their careers, furthermore, have little incentive to be loyal to the Department or, for that matter, to their oath. In fact, as we discussed in Chapter Three, Department inquiries have demonstrated that officers assigned to dangerous, high-crime precincts take a perverse pride in their deviant reputation and are convinced that Internal Affairs investigators and strong supervisors will not even venture into their dangerous and crime-ridden territory. They thus feel that they have free rein on the streets of their precincts.

As many police officers, police management experts, and our own investigations indicate, constant exposure to communities overrun by drug dealing and violent crime all too easily infects even the best-intentioned officers – not just “rotten apples” – and influences them to take the first steps toward succumbing to their worst instincts. It is unwise and unfair to leave officers exposed to this kind of environment indefinitely. Regular rotation to less intense patrol areas will do much to protect vulnerable officers from corruption.

Many police officers have also complained, moreover, that the Department does little to recognize officers who perform conspicuous acts of integrity. The institutional message they take from the Department's failure to recognize honest officers is that integrity is not a valued Department priority. The Department must do more to publicly recognize and reward honest cops.

In light of these findings, the Commission believes that the Department must dispel the belief that certain precincts are used as “dumping grounds” and must make every effort to prevent fractionalizing precincts into insular groups of officers. In addition, the Department should regularly monitor and explore police officers' morale and their prevailing attitudes and opinions about integrity and other job-related issues. It must also make officers believe that honesty and integrity are indispensable qualities of any good police officer. We recommend the following steps toward addressing these problems:

- The Department should establish a system to rotate officers' command assignments within a borough every three to five years to reduce exposure to command conditions that foster corruption.
- Implement a rotating tour of duty system to reduce the insularity that fosters corruption. Police officers should not be assigned to steady late tours for more than two years.

- Precinct commanders should rotate partners where indications of corruption exist.
- Assign proven and experienced supervisors to high-crime, corruption-prone precincts.
- The Department should insure that police officers transferred for disciplinary or administrative reasons are re-assigned equally among all precincts.
- The Department should use its program of "focus groups" to provide field commanders information regarding officers' morale and attitudes about integrity and other job-related concerns.
- The Department should establish a system to reward honest officers, and those who assist in identifying and uprooting corruption, with choice assignments, promotions, and commendations.
- The Department should conduct an annual integrity award ceremony day to publicly acknowledge officers for conspicuous acts of integrity.

### **Police Unions**

While respecting the right of police unions to represent the interests of their members zealously, the Department must make every effort to enlist the support of union leadership in assisting the fight against corruption. And, for their part, police unions must help the Department rid itself of the men and women who do not deserve to be New York City police officers. The vast majority of police officers are honest and not corrupt. By their actions, police unions must demonstrate that the vast majority of honest officers are among the principal victims of police corruption.

Police unions speak with an especially powerful voice to their membership. Most officers see their union organizations as the guardians of their rights and interests in the face of Department rules and regulations, and an often hostile public. Consequently, unions have a high obligation to their members and the people of our City to join the Department in condemning police corruption with one voice.

Recently, the Patrolmen's Benevolent Association has given a fine example of this critical message. Ten days after the arrests of fourteen officers of the 30th Precinct, the P.B.A. published a full-page message in local newspapers praising the heroism of police officers, condemning police corruption as "disgraceful and intolerable," and pledging its support to assist the Department in ridding itself of "those criminals in a blue uniform." All police unions must convey this message, not only through newspaper announcements,

but in their daily dealings with their members. For example, unions would do much good by addressing the topic of police corruption at membership meetings to help educate officers about the danger corruption brings to their safety, their reputation, its impact on their families and on their capacity to perform their job effectively.

Unions can make important strides too in assisting the Department and the District Attorneys in conducting successful investigations by encouraging their members who are witnesses – not subjects – of such inquiries to cooperate with investigators and prosecutors. According to prosecutors, Department officials, and in the Commission's own experience in questioning police witnesses, police union representatives and attorneys advise such witnesses to give no statements unless the immunity provisions of Patrol Guide Procedure No. 118-9<sup>18</sup> are in effect.

While this may be sensible advice to officers who are targets of an investigation or to those who face a risk of self-incrimination, in the case of the witness officer, it only serves to prevent law enforcement authorities from obtaining reliable evidence from those they should expect it most – their fellow public servants. What is worse, such blanket advice puts enormous pressure on the guiltless officer – who may want to answer questions – not to stray from the common practice of abiding by union advice and remaining silent. In our view, police officers who are witnesses to events under investigation by a District Attorney have a special obligation to cooperate with law enforcement authorities, so long as they are allowed to consult with counsel and are given assurances that their statements will not be used against them in a criminal proceeding.

In some cases, especially those that have received public attention, silence harms innocent officers more than it helps because suspicion about their complicity grows in the absence of factual contradiction. In other cases, even officers who are subjects of investigations may see their best interest in cooperating and assisting Department investigators or other law enforcement authorities. In some instances, therefore, police officers might better protect their interests by seeking counsel independent from that provided by their union who labors under a potential conflict of interest. In light of these circumstances, the Commission recommends that the Department gain police unions' support for the following initiatives:

- The establishment of a panel of volunteer attorneys drawn from law firms throughout the City who are able and willing, on a *pro bono* basis, to advise and represent police officers who desire counsel independent from police union attorneys during the course of Department or other law enforcement corruption investigations.

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<sup>18</sup> This procedure requires the Department to confer immunity from criminal prosecution before interrogating officers.

- The promulgation of a Department order requiring police officers who are witnesses in investigations conducted by a prosecutor to cooperate and answer questions related to the matter under investigation, unless the answers to such questions might tend to incriminate the responding officer. During such interviews, officers should have right to counsel and a guarantee that any statements made in response to such questioning will not be used as evidence against them in a subsequent criminal proceeding. Refusal to abide by this order should result in Departmental charges.
- Police Unions should be encouraged to play a more active role in educating their memberships about the dangers of corruption to them and the Department, and in changing police attitudes that foster corruption, including the code of silence.
- Police Unions should encourage their members who are witnesses, not subjects, of criminal investigations or Departmental inquiries to cooperate with investigators and prosecutors.

### **Drug Testing**

Overwhelmingly, police officers we interviewed expressed great concern about any drug use by fellow police officers. They understand the great danger that drug-using officers present to them and to the members of the public. Because of this, they support increasing random drug testing and a policy of immediate termination for officers who abuse drugs.

The Commission agrees. Our study shows that, in our day and age, personal drug abuse among police officers is a growing problem as it is in most other professions. Unfortunately, supplied with guns, batons, and the power of arrest, police officers who abuse drugs not only risk their own lives – as all drug abusers do – but the lives of their colleagues and the public. We need only conjure up the image of Michael Dowd snorting cocaine off the dashboard of his patrol car to vividly understand the great danger of drug abuse among police officers.

Random and “for cause” drug testing have proven to be effective means to remove unworthy police officers from the Department. They can also be effective tools for preventing and deterring drug use among officers. As Michael Dowd told Commission investigators, during his career of corruption he feared a drug test much more than Internal Affairs. A recent Commission study, moreover, shows that of 369 officers dismissed or suspended from the Department over the last six years, 26 percent failed a drug test.

Despite the importance of drug testing, we found that in the past such tests were given far too infrequently and were sometimes not difficult to circumvent or “beat,” as some



officers put it. We recognize that administering drug tests costs money. Given the grave consequences of drug use among officers and the great benefits derived from an aggressive drug testing program, however, we have concluded that this must be a priority in the Department. In light of these considerations, the Commission recommends the following initiatives:

- Increase both random and “for cause” drug testing for all members of the Department, including probationary officers.
- The Department must consistently enforce its policy of immediate dismissal for officers who fail or refuse a drug test.
- Integrity training should include instruction on the signs of drug and alcohol abuse, and the responsibility of officers and supervisors to report drug and alcohol abuse by fellow officers.
- The Department should tighten its drug testing procedures to minimize the possibility of circumventing drug tests, including enforcement of the time limitation between notification and administration of the test.
- The Department should call upon police unions and fraternal organizations to endorse publicly an aggressive drug testing program.

#### **New York City Residency Requirement**

Many have suggested that a New York City residency requirement would reduce incidents of corruption within the Department. In our study of the backgrounds of four hundred officers dismissed or suspended over the past six years, we found no correlation between residence and corruption. In fact, 77 percent of the dismissed or suspended officers we studied resided in one of the five boroughs at the time they applied to the Department.

The Commission has, therefore, concluded that while a residency requirement for police officers has other important virtues, corruption does not appear to be one of them.

## **II. COMMAND ACCOUNTABILITY**

#### **Enforcement of Command Accountability**

One of the most pervasive managerial failures the Commission has observed in the Department over recent years is its failure to maintain the system of command accountability. The cornerstone of the Department’s anti-corruption strategy, command

accountability requires a comprehensive commitment to successful corruption control throughout the Department, especially from field commanders. Ideally, the entire Department should be infused with values that discourage corruption. But at the very least, field commanders should be held responsible for the state of corruption within their commands. If corruption control fails, field commanders, as well as internal investigators, should answer for it. If it succeeds, they should be commended.

Successful command accountability is particularly important because it can, as it has in the past, change the organizational culture of the Department. Command accountability forces corruption control to be the responsibility of all the Department's managers and pushes anti-corruption priorities out into the field. Under this principle, protecting the integrity of police officers is vested not just in Internal Affairs but in every stationhouse in the City.

Without the principle of accountability becoming standard operating procedure throughout the Department, no system of corruption control, no matter how well devised and equipped, is likely to succeed. When the public sees groups of police officers arrested for crimes they committed while on duty and in uniform, it demands an answer to the question of how such corruption could possibly have occurred without police supervisors detecting it and making every effort to stop it. The Department must provide an answer to that question if it ever hopes to restore the public's confidence in its integrity and good faith. It also owes that answer to its own rank and file who feel they are the only targets in corruption probes, while the bosses are never called to account.

Some have argued that with the elimination of the FIAUs -- which, in theory, served as the investigative tool for field commanders to uncover corruption -- field commanders cannot fairly be held accountable for corruption on their watch.

We do not agree. As discussed in Chapter Four, the FIAUs were rarely used as a management tool by borough or precinct commanders to effectively fight corruption -- nor were they used by the Department as a basis for enforcing command accountability. We believe that command accountability need not depend solely on commanders investigating corruption through field units. Commanders can and should be held accountable for their efforts in preventing and detecting corruption, reporting it to IAD, and assisting with any ensuing investigation. They must make it clear to their subordinates that they will not tolerate corruption or the code of silence in their commands; that they will reward those who come forward to report corruption, and, when appropriate, sanction those who do not; they must insure that supervisors vigorously pursue and report their suspicions about corruption; and in particular they must use their Integrity Control Officers to monitor and identify corruption problems in the precinct, including through such means as monitoring the precinct radio, spot checking arrest scenes and identifying other corruption hazards and problem officers. When they want their suspicions pursued, commanders still have an investigative arm: the Internal Affairs Bureau. In sum, we believe the basis for fair and

firm enforcement of command accountability exists – even without the FIAUs – if the recommendations that follow are carried out.

Enforcement of command accountability, however, is not easy. It does not simply mean that a superior officer's head must roll for every instance of corruption – as the press and others often demand. After all, disclosure of corruption can be evidence of good, as well as poor, performance in fighting corruption. A strict liability standard – imposing sanctions whenever corruption is uncovered – is not only unfair but it creates incentives to conceal or transfer corruption rather than uproot it. On the other hand, subjective, conclusory decisions on liability made by commanders or chiefs is also unfair. The Department must make commanders understand that they will be judged fairly and regularly for their anti-corruption attitudes; that they will be rewarded or penalized on the basis of their actual performance in uncovering corruption – not on the fact that corruption exists. But making such determinations requires time and effort. It requires factual inquiries and investigations, not just conclusory pronouncements on culpability or diligence. It requires an investigation into what commanders knew or should have known and the measures they took or failed to take to prevent or uncover corruption in their command. Without making such genuine determinations, command accountability will continue to be mere rhetoric rather than actual practice.

A major failure of the Department's past approach to command accountability has been that no mechanism was ever put into place to enforce it. No person or unit was ever responsible for determining when corruption disclosures reflected supervisory neglect or vigilance. Most people presume the Police Commissioner enforces command accountability, but no Commissioner ever instituted a mechanism to monitor commanders' performance and, when necessary, determine culpability. As a result, such determinations were rarely made.

Command accountability also requires that commanders understand that they will be judged regularly, not only during scandals, for their anti-corruption performance. A tool that was initially intended to help keep commanders accountable was the annual Corruption Assessment Report. Since the 1970s, precinct commanders and heads of police units have been required to report the state of corruption and corruption hazards within their commands by submitting this Report to the Police Commissioner. The Commission's inquiries showed that, over the last decade, what began as a possibly useful integrity control and command accountability tool has become useless boilerplate. Commanding officers file essentially the same report year after year with only superficial changes.

The Department should reform this potentially useful tool. It should require all commanding officers, including borough, precinct and unit commanders to participate in an annual Corruption Assessment Review; a face-to-face briefing session with Internal Affairs commanders to apprise Internal Affairs of the following information: (i) corruption hazards within their commands; (ii) intelligence information about corruption-prone officers; (iii) the

level of supervision within the command; (iv) efforts to prevent corruption; (v) management problems that impede corruption control; and, (vi) any need for additional resources or assistance from IAB to deter or uncover corruption. We recommend that the commanding officer be required to memorialize the substance of the Corruption Assessment Review in a brief report that should be submitted to the First Deputy Commissioner and the Deputy Commissioner for Internal Affairs.

We expect such personal briefing sessions will serve a number of important purposes. First, they will insure regular monitoring and evaluation of commanders' anti-corruption performance. Second, they will motivate Internal Affairs and field commanders to engage in productive relationships to control corruption and help overcome the isolation and mistrust that has long divided field commanders and Internal Affairs officers. They will help encourage commanders to view IAB as a management tool they can use to fight corruption rather than as potential trouble-makers. Third, they will compel commanders to take a more active and personal role in deterring and reporting corruption within their commands. Fourth, they will force commanding officers to give careful consideration to the corruption hazards in their commands and their plans to address them, rather than allowing them to rely on outdated and repetitive written reports. Finally, they will allow command accountability inquiries to focus not only on a commanding officer's knowledge and actions, but on the adequacy of Internal Affairs' response. In the event corruption comes to light in a command where a field commander or Internal Affairs commander failed to address the problem, they should be held equally to account for their omissions.

Commissioner Bratton has begun to make the importance of command accountability clear to police supervisors. In the wake of the 30th Precinct investigation and the Commission's findings on the collapse of command accountability, he has stated publicly that scrutiny of supervisors has been lax over the past decade and that police supervisors who turn a blind eye to corruption do so at great risk. The Commission has seen a considerable effort on the part of the Department to revitalize genuine command accountability. The challenge is to sustain and reinforce that effort over the years. To accomplish that, the Commission has concluded that the principle of command accountability must be completely reinvented. To help achieve this goal, we present the following recommendations:

- The Police Commissioner should make clear his total commitment to enforce the principle of accountability to all police commanders and supervisors.
- Establish a special Command Accountability Review Unit to conduct post-corruption disclosure investigations to identify the supervisors and commanders who knew or should have known about corruption within their commands and failed to take adequate measures to prevent and report it, as well as those who performed diligently in this area. The unit should also determine whether commanders provided appropriate assistance to internal investigators during a corruption investigation. The unit should operate under

the direction of the First Deputy Commissioner and should include a representative from our recommended external independent monitor, should one be created.

- The performance of the Command Accountability Review Unit should be monitored by the independent external monitor.
- The Police Commissioner should provide for sanctions, including demotion or dismissal, for supervisors who failed in their duties, as determined by the Command Accountability Review Board.
- The Police Commissioner should publicly reward supervisors who have demonstrated their commitment to integrity, as determined by the Command Accountability Review Board, or by other means.
- The Department should factor superior corruption control performance in promotion and assignment practices.
- The Police Commissioner should require commanders to participate in yearly Corruption Assessment Reviews with Internal Affairs commanders which insures that commanders will be regularly monitored and assisted with their anti-corruption performance.
- Train police supervisors and commanders in the indications and conditions suggesting corruption is taking place so that they make accurate assessments of the corruption hazards in their commands.
- Internal Affairs should keep precinct commanders informed of the existence and developments of corruption investigations within their commands and require them to assist in investigations.
- The Command Accountability Review Unit should also review and determine the adequacy of Internal Affairs' response to information on corruption received from supervisors and commanders, as well as the adequacy of its assistance to supervisors and commanders. Internal Affairs commanders should be held accountable for poor performance in this area or rewarded for outstanding performance.

## **Supervision**

In the course of the Commission's investigations into precincts where corruption existed, we found sparse and ineffectual supervision at every turn. The failure of effective supervision has been a major contributing factor not only to corruption but to the climate of tolerance that makes it possible. As we stated in our Interim Report, many supervisors of all levels acted as if it was better not to know about, much less, report corruption. If the Department has any hope of minimizing corruption in future years, that attitude must change. The Commission recognizes that the demands of police work inevitably make close supervision a very difficult goal. But effective corruption control must begin with strong supervision.

While the Commission found, in most instances, no hard evidence that most supervisors were directly engaged in corrupt acts, in precincts such as the 9th, 30th, 46th, 73rd and 75th, and where groups of police officers engaged in outright criminal activity, it is hard to believe that supervisors were ignorant of the corruption of their subordinates. In fact, a number of supervisors knew or should have known about corruption within their commands and did nothing to stop it.

Of all supervisory positions, sergeants, as first-line field supervisors, were in the best position to know about corruption. Unfortunately, in too many cases explored by the Commission, sergeants failed to serve as a deterrent to corruption. There are a number of reasons for this, not all of which reflect poorly on the abilities or commitment of individual sergeants and other supervisors. These reasons, plus additional findings on supervision failures were discussed in detail in Chapter Four. A brief summary of these deficiencies follows.

To begin, sergeants have suffered a dramatic dilution of authority in recent years. They are increasingly young, inexperienced, and often feel more loyal to their subordinates than to the Department's managers. They are eligible to take the sergeants' examination immediately after their term as a probationary officer expires, which means after only eighteen months' experience as a police officer. Establishing their credibility and authority is thus often difficult.

There is also a critical shortage of sergeants in many precincts within the Department causing an unmanageable span of supervision, or ratio of supervisors to patrol officers. While police experts have recommended a supervision ratio of one sergeant to ten officers, we found in some precincts, sergeants were responsible for supervising more than thirty officers in any given tour. It was not uncommon, furthermore, for sergeants to be assigned supervision of patrol officers in two separate precincts in the same tour. Under such conditions, it is practically impossible for sergeants to know what their subordinates are doing at any given time -- which is no secret to officers on the streets. Even in precincts with manageable numbers of subordinates to supervise, sergeants must perform a host of

administrative duties that require them to devote more time to paperwork than to active field supervision.

In many high-crime precincts, sergeants do no supervising at all. Besides their supervisory and administrative duties, sergeants assigned to such precincts routinely handle calls for service during busy periods, which are the responsibility of patrol officers – which further undermines their authority.

Department commanders often assigned sergeants and other supervisors without regard to prior experience, training or the needs of the particular command. Inexperienced probationary sergeants were often assigned to busy, corruption-prone precincts where experienced and proven supervisors were most needed.

Even more troubling, many supervisors and commanders do not perceive corruption control as part of their responsibility. In past years, the Department did little to suggest otherwise. It rarely trained supervisors on corruption control or held them responsible for their performance.

The Department also did little to support the precinct Integrity Control Officer (“ICO”) who is responsible for assisting precinct and unit commanders with corruption issues. ICOs spend most of their time controlling paper rather than corruption. They are also isolated from IAD and are rarely provided with information about corruption in their commands. In sum, they have become clerks rather than corruption fighters.

To reverse the problem of ineffective supervision, the Department must first make clear to all supervisors that they have a critical role in preventing and detecting corruption. That message must start with training and must be reinforced by application of the principle of personal accountability. In the past, the Department’s training of supervisors was inadequate. Most sergeants and lieutenants we interviewed harshly criticized the Department’s management training courses. They claimed they taught them nothing about how to manage and supervise subordinates – and were basically a mere patrol guide refresher course that failed to realistically address the practical problems supervisors face in today’s environment. Moreover, supervisors, received no training in how to detect and prevent corruption on their watch or how to identify corruption-prone officers. They received no message about the importance of carrying out their anti-corruption duties.

The Department must also train supervisors on how to effectively communicate with a diverse patrol force. Such training, especially with a growing minority contingent is vital to any diverse group. It is especially important to groups that spend hours together. Our investigation revealed that certain minority officers sometimes feel themselves to be outsiders in a basically white Department. While it is not uncommon for minorities in any large group to feel this way, various studies suggest that human interaction training can heighten morale and loyalty and lessen alienation.

In recent months, the Department has moved swiftly to correct many of the supervision problems identified by the Commission. Recently, the Department promoted approximately four hundred new sergeants and has begun to reform supervisory training by establishing a Sergeants' Academy that provides anti-corruption training and in-service leadership seminars for supervisors of all ranks.

In light of the Commission's findings on police supervision, we offer the following reform recommendations:

- Require officers to have at least three years of service experience before becoming eligible for promotion to sergeant.
- The Department should reform its supervisory staffing model to insure that appropriate numbers of experienced and proven sergeants are assigned to the most corruption-prone precincts and that supervision in such commands be maintained at an appropriate ratio of sergeants to officers.
- In precincts where sergeants are required to perform patrol duties or non-supervisory functions, a second sergeant should be assigned exclusively to supervise officers on patrol.
- The Department should increase the number of field supervisors during midnight tours of duty in corruption-prone precincts.
- The Department should not require sergeants to supervise more than one precinct during the same tour of duty.
- The Department should examine whether certain administrative tasks of patrol sergeants and ICOs can be eliminated or curtailed to allow them to devote more time to field supervision.
- The Department should promulgate a clear policy on the duties and responsibilities of ICOs that focuses on their responsibility for precinct integrity controls. ICOs should be used to reinforce professional values, detect evidence of corruption, and ferret out wrongdoing and inefficiency.
- ICOs should receive specialized integrity control training and the resources necessary to perform an active anti-corruption role in their commands by gathering intelligence, monitoring precinct corruption hazards, monitoring the precinct radio, spot monitoring arrest scenes, communicating with Internal Affairs, and investigating allegations of misconduct.



- ICOs should be required to conduct precinct corruption-prevention audits by reviewing arrest reports, requests for overtime pay, stop and frisk reports, declinations to prosecute, copies of criminal court complaints, and other documents to determine patterns of questionable arrests and identify other indications of corruption. ICOs should advise precinct commanders where levels of supervision need to be increased.
- The Internal Affairs Bureau should establish regular, in-command liaison with ICOs and use their services in intelligence-gathering and investigations.
- The Department's recently established Sergeants' Academy should include a course of instruction that emphasizes practical management skills, establishing command authority, integrity control methods, and leadership qualities necessary to be an effective first-line supervisor. The course of instruction should be based on interactive methods of instruction and field work in the City's busy, high-crime precincts. All new sergeants should be trained in identifying indicators of corruption, brutality, and substance abuse.
- Require periodic in-service training for all supervisory ranks in corruption, brutality, and substance abuse detection and prevention. The training should include realistic, interactive instruction based on profiles of corruption-prone officers and commands.
- The Department should establish regular in-service leadership seminars for all police supervisors, including racial and cultural diversity training.

### III. INTERNAL INVESTIGATIONS

#### Internal Affairs Operations

Over the past two years, this Commission, the media, and recently, the Department itself have focused a great deal of attention on the litany of failures of the Department's internal anti-corruption apparatus. As the Commission has reported, our investigation revealed a corruption investigation system that often minimized and even concealed corruption rather than rooted it out. Oversight of Internal Affairs was virtually non-existent, intelligence-gathering efforts were negligible, corruption investigations were often deliberately limited and prematurely closed, and the appearance of integrity was more important than the reality. In short, genuine commitment to fighting corruption had virtually disappeared and Internal Affairs had abandoned its mission to remove serious corruption from the Department.

The Department has come to acknowledge the vast problems infecting Internal Affairs identified by the Commission, and the Department has begun to act. Under the leadership of Commissioners Kelly and Bratton, Internal Affairs has gone through many important changes. Internal Affairs operations have now been centralized into one Bureau headed by a civilian Deputy Commissioner, Walter Mack, an experienced and skillful former prosecutor who has done much to energize and expand the Department's internal investigations. The organizational structure of the Internal Affairs Bureau has changed a number of times as the Department seeks the best structure to support Internal Affairs' mission. A large turnover in personnel has occurred with many of the complacent and incompetent executives of Internal Affairs either having retired from the Department or been transferred from the Bureau. Some experienced and respected investigators have joined Internal Affairs and the Bureau has been allocated over two million dollars in advanced investigative equipment and a new computerized case-tracking system.

Most important, the Commission has detected a heightened commitment and assertiveness on the part of Internal Affairs investigators. While uncovering the largest police corruption case in recent history, Commission investigators worked side by side with investigators of the Internal Affairs Bureau. At every turn in the investigation, the Internal Affairs investigators worked tirelessly to uncover the full scope of corruption within that precinct and were unwaveringly committed to acquiring the necessary evidence to root it all out. We recognize that the Department acted in this manner under the light of outside scrutiny by this Commission. But the point is with such oversight it acted with skill and uncompromising zeal.

Fundamental problems, however, do remain. First, while we certainly detected an increased commitment and effectiveness on the part of Internal Affairs commanders and investigators with whom we worked, we cannot be certain that this new attitude has spread throughout the Bureau. We continue to see the need for continued emphasis on swift and efficient decision-making and the placement of operational authority in the hands of the investigators most familiar with case strategy, focus, and goals.

Second, most officers still have little trust or respect for Internal Affairs. Overwhelmingly, officers of all ranks interviewed by the Commission and the Department continue to view Internal Affairs as a group of petty, inexperienced, and incompetent investigators with no knowledge of the demands of real police work. They contemptuously describe Internal Affairs as a "white socks and no hats" operation that focuses on pestering hard-working officers with petty infractions rather than aggressively pursuing allegations of serious corruption and criminality. Officers express great concern that Internal Affairs' failure to investigate allegations fully and its tendency to close cases as "unsubstantiated" or by noting minor misconduct unfairly hurts their chances for choice assignments and promotion.

Even worse, officers remain very skeptical about Internal Affairs' handling of police informants and its ability and willingness to insure confidentiality to officers who report corruption. A great many officers believe that Internal Affairs will disclose the identity of complainants or turn the focus of an investigation toward the very officer who made the allegation. An officer willing to violate the code of silence to report corruption will hardly turn to investigators he believes to be incompetent, unsupportive, and even vindictive.

Internal Affairs must first and foremost re-establish its credibility among members of the Department if it hopes to fight corruption effectively. Only by regaining its credibility will it recruit respected investigators and proven commanders, overcome the code of silence, and help spread a climate of intolerance for corruption throughout the Department.

To do so, the Department must assure Internal Affairs sufficient personnel, resources and support to prove itself a serious and sophisticated investigations unit that focuses exclusively on serious corruption and criminality and gains a reputation for success in removing corrupt and criminal officers from the job and exonerating honest officers from baseless allegations. Internal Affairs must become an investigations unit that launches investigative initiatives based on intelligence and analysis without relying on a reactive, complaint-driven system. By its actions, Internal Affairs must make police officers understand that it will vigorously pursue officers involved in crimes and serious corruption even if their colleagues and associates remain silent. Successful self-initiated investigations will quickly convince officers that their reliance on silence as a shield for wrongdoing is gravely misplaced. In short, it is imperative that Internal Affairs earn the respect and support of the entire Department.

In light of our analysis of Internal Affairs' past failures and its urgent need to regain the confidence of the police and the public alike, the Commission offers the following recommendations for reform. We believe implementation of these reforms will go a long way in protecting the Department's system of internal investigations against future decay.

#### Recruitment of Qualified Investigators

- Internal Affairs must improve the quality and reputation of its investigators. The Department should offer incentives and rewards to attract the best investigators available. Until such time as Internal Affairs attracts highly qualified volunteers, the Department should continue its recent policy of allowing Internal Affairs first choice of supervisors seeking assignment to an investigative unit. Internal Affairs should continue its policy of rotating its staff to avoid stagnation and increase the number of supervisors with corruption investigation experience throughout the Department. Service in Internal Affairs should be viewed as a positive factor in the career path of a police officer.

- The Police Commissioner should make every effort to recruit as commanders of Internal Affairs officers who have a Department-wide reputation for varied experience, management and investigative skill, and outstanding leadership ability.
- The Department should recognize the outstanding performance of Internal Affairs investigators with citations, commendations, and promotions as it does for officers assigned to other commands.

### **Intelligence-Gathering Operations**

- Internal Affairs must immediately strengthen its intelligence-gathering analysis operations. All witnesses, complainants, and informants must be assured absolute confidentiality or anonymity. This is particularly crucial for police officer complainants or informants. Any Internal Affairs officer who breaches confidentiality must be sanctioned severely.
- Debriefing informants and cooperating defendants on police corruption should become a regular practice among all investigative units within the Department, such as the Detective Bureau and the Organized Crime Control Bureau. Such investigators must actively pursue information on police corruption. All such information should be promptly reported to Internal Affairs.
- Internal Affairs must recruit and operate a cadre of undercover officers in the most corruption-prone precincts and commands. Their role should be to gather information on corruption within their commands and provide the basis for integrity tests, electronic surveillance, and other pro-active investigative measures. Members of the Internal Affairs undercover squad must be prepared to testify and swear to court affidavits or warrant applications if necessary.
- The Internal Affairs Action Desk personnel must be trained and regularly evaluated on being courteous and encouraging to complainants. The Language Line translation service must be made available to the Action Desk, as it has been to other commands within the Department.
- The Voluntary Assistance Program, better known as the Field Associate Program, must be reinvigorated, expanded, and placed under the direct control of the Deputy Commissioner for Internal Affairs. All reports from Field Associates should be recorded and regularly reviewed for appropriate action by Internal Affairs.

- All information from complainants, informants, undercovers, field associates, and other sources should be made available to the Internal Affairs Corruption Prevention and Analysis Unit. That unit should use this information to insure effective case tracking, and produce complaint correlations, corruption trend and subject analysis, and corruption profiles that will be used as a basis to commence pro-active investigations of corrupt officers.

### **Investigative Approach**

- Internal Affairs must focus exclusively on cases of serious corruption and crime. Internal Affairs must pursue police officers suspected of crimes and serious corruption with the same intensity as any other criminal activity outside the Department.
- Internal Affairs must adopt a chiefly pro-active investigative approach. While continuing to respond to complaints of corruption, the bulk of Internal Affairs investigations should be self-initiated and targeted where intelligence analysis suggests serious corruption exists.
- Complaints received by Internal Affairs should not be investigated in isolation. The focus of Internal Affairs investigations should expand beyond isolated allegations against an individual officer to focus on groups of potentially miscreant officers and patterns of corrupt activity.
- In pursuing corruption investigations, Internal Affairs must employ the full panoply of investigative techniques used in every other investigative division within the Department. Internal Affairs must use, as appropriate, undercover officers, criminal informants, and court-ordered electronic surveillance.
- Internal Affairs must never be reluctant to turn one corrupt officer against another. Because of aspects of police culture that conceal corruption, Internal Affairs should design their investigations to achieve the cooperation of corrupt officers against others, both to acquire evidence and to help undermine the code of silence on which corruption relies.
- Internal Affairs must increase the number, regularity and quality of targeted and random integrity tests. These tests must be carefully administered under the guidance of a prosecutor, well devised and tailored to the type of corruption under investigation, and aimed at officers or commands exhibiting a reasonable basis for suspecting corruption.

- Integrity tests should focus only on acquiring evidence of serious corruption and criminality. Tests that result only in minor infractions should be referred to local commanders.
- Internal Affairs must seek the assistance and legal counsel of the appropriate prosecutor at the earliest stages of a corruption investigation. The Deputy Commissioner for Internal Affairs should insure notification of prosecutors when internal investigators conduct field operations in their jurisdictions.
- Patrol Guide Procedure No. 118-9 should be amended to allow internal investigators to interrogate police officers under oath and with penalties for perjury.
- Investigations of serious corruption should not be closed until all evidence of corruption is uncovered or determined to be baseless. Cases with no investigative merit should be disposed of swiftly to avoid unnecessary backlog. All closings of cases of serious corruption should be reviewed by the Deputy Commissioner for Internal Affairs and his staff. Any Internal Affairs officer who prematurely closes a case or approves such a closing, or has failed to employ sufficient investigative measures and resources, should be held to account. The basis for case closings should be regularly reviewed by the external independent monitor should one be created.
- Every allegation of corruption that is reported should immediately be recorded and receive a log number.
- District Attorneys should get copies of all corruption case logs on a daily basis.

### Organizational Structure

- Internal Affairs' organizational structure should adopt the module team structure used by the Organized Crime Control Bureau. The structure must allow for more efficient decision-making authority and a more streamlined chain of command. Investigators actually conducting the case must be allowed operational authority. Investigative teams should be assigned to investigate geographic areas and special commands so that investigators acquire expertise in local corruption conditions and develop productive, trusting relationships with prosecutors. The final decision-making authority should reside with the Deputy Commissioner of Internal Affairs.

### **Command Liaisons**

- To rehabilitate its reputation within other commands of the Department and educate the Department about its reformed philosophy and goals, Internal Affairs commanders with particularly strong reputations and experience in other commands should address police commanders, integrity control officers, and roll calls about corruption, civil rights violations, and the objectives of Internal Affairs.

### **Civil Rights Investigations**

- Internal Affairs should immediately establish a Civil Rights Investigations Unit dedicated to the investigation of brutality, perjury, false arrests, and other types of civil rights violations. This unit should conduct its own self-initiated investigations as well as assist the Civilian Complaint Review Board in investigating force allegations lodged with that agency.
- Internal Affairs must examine correlations between corruption complaints and complaints of excessive force lodged with Internal Affairs and the Civilian Complaint Review Board.
- Command accountability must extend to acts of excessive force and civil rights violations. Corruption Assessment Reviews must include civil rights violation as a corruption hazard category.
- Recruit and In-Service integrity training must address excessive force and civil rights violations. Instruction must include alternatives to the use of force in policing and not merely instruction when force is justified as characterizes current training.

## **IV. SANCTIONS AND DETERRENCE**

Effective sanctions and deterrence are also crucial components of corruption control. In the past, deterrence has been lacking from the Department's integrity controls, both because of the Department's own negligence as well as the obstacles imposed by existing laws. Many of the reforms we recommend throughout this chapter will heighten deterrence by increasing the risk of detection of corrupt activities. But there are a number of legislative and other reforms that can help strengthen the Department's detection and sanctioning efforts. Before leaving office, former Police Commissioner Kelly recommended a number of proposals designed to make discipline more effective. The Commission strongly endorses these proposals as sensible measures to insure that legal technicalities do not allow corrupt

officers to “beat the system.” These proposals, along with the Commission’s recommendations in this area, are as follows:

### Discipline

- Amend New York City Administrative Code, Section 13-246 to provide for a minimum period of ninety days notice to the Department before an officer is permitted to retire with full pension. The current minimum period of thirty days fails to allow the Department sufficient time to complete disciplinary proceedings before an officer retires and escapes the consequences of misconduct.
- Amend Public Officers Law Section 30(e) to allow for the revocation of lifetime pension benefits for officers convicted of a felony or federal law equivalent committed while in the performance of their duties. Corrupt officers should not be allowed to retain such benefits after such convictions.
- Amend Criminal Procedure Law Sections 160.50 and 160.55 to allow the Department statutory access to the sealed records of police officers who have been the subject of criminal proceedings. Such access is currently allowed with respect to police applicants and should not be denied in the case of sworn police officers who have been accused of crimes. In addition, Section 296 of the Executive Law should be amended to exempt such access and use as a discriminatory practice under the Human Rights Law.
- Amend Civil Service Law Section 75, Subdivision 4 to restore the statute of limitations for Department disciplinary proceedings to three years from the current eighteen months. The current statute of limitations defeats the goals of long-term corruption investigations.
- Amend Civil Service Law to allow for the demotion in rank and salary of sergeants, lieutenants and captains who have engaged in corruption or failed to carry out their supervisory duties. Current law precludes such demotions.
- Amend New York City Administrative Code Section 14-115 to provide the Police Commissioner with additional penalty options after an officer is found guilty in a Department disciplinary proceeding. Current law forces the Police Commissioner to choose between two narrow options: forfeiture of thirty days pay or dismissal from the Department. This problem can be corrected by permitting the Police Commissioner to impose the following penalties:
  1. Suspension without pay for a period up to one year (the current maximum is thirty days)



2. A monetary fine of up to \$25,000 (no monetary fine provision currently exists in the Administrative Code)
  3. Demotion in grade or title, with a commensurate reduction in salary (currently no demotion provision exists in the Administrative Code)
- On-Line Booking Sheets should be revised to require arresting officers to attest to the circumstances of the arrest under the penalties of Penal Law Section 210.45 relating to false written statements.
  - The Deputy Commissioner for Internal Affairs should have an opportunity to submit recommendations to the Department Advocate's Office on the appropriate disposition of charges and sanctions for officers involved in Departmental disciplinary proceedings.

### **Disability Pension Abuse**

The Board of Trustees of the Police Pension Fund has the authority to approve lifetime pension benefits to any police officer who is found to be physically or mentally unable to perform police duty. A police officer retired in this manner is entitled to a tax-free annual pension. If the officer is found to have sustained a total permanent disability in the line of duty, the amount of the annual tax-free pension benefit is no less than three-quarters of the officer's annual salary at the date of retirement.<sup>19</sup>

The Commission inquired, and learned from police officers, doctors, and other sources about the potential for abuse in the area of disability pensions. They painted a picture of a police pension system flawed by vaguely defined standards and overtones of favoritism. A police officer who is legitimately injured in the line of duty and suffers a disability should receive the full extent of the pension benefits available. However, evidence reveals that the law governing police pensions and related procedures does not reward only those who deserve it.

Officers told us that they were aware of officers who deliberately injured themselves to apply for disability pensions. Commission investigators were also told of occasions in which officers who received off-duty injuries falsely claimed that they were received while on duty. The Commission also detected a widespread perception among rank and file police officers that the Police Pension Board fails to aggressively investigate disability pension applications of high-ranking officers. They view the pension system as providing superior officers with a tax-free "brass parachute" when they retire from the Department.

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<sup>19</sup> New York City Charter and Administrative Code Section 13-206.

Although the public is understandably disturbed when they see seemingly able-bodied officers receive tax-free lifetime pensions, it does not necessarily constitute corruption. As the pension laws are currently written the standard for determining whether an officer is disabled is vague. Recently the Department's Deputy Chief Surgeon, Dr. Gregory Fried, has undertaken a review of officers deemed disabled from 1991 to the present. In an interview with a Commission staff member, Dr. Fried stated that he found significant flaws in the current system of awarding disability pensions. Because there are no well defined medical criteria, he described the entire system as a "crapshoot." Because the standards are so vague, he believes they fail both to support legitimate claims and to winnow out fraudulent ones. As Dr. Fried put it, "Liars have a better chance of getting a disability pension. It creates police welfare for the phoney."

According to Dr. Fried, there is currently no coordination of effort among Internal Affairs, the Department Surgeon's Office, and the Department Advocate's Office to detect police officers who submit fraudulent disability pension claims. While it was beyond the mandate of this Commission to conduct an investigation of the police pension system, we note this as an area of concern for future inquiry.

## **V. COMMUNITY OUTREACH**

### **Community Policing and Community Outreach**

As the Department expands the implementation of community policing, many law enforcement officials, including police officers, have expressed their concern that officers' close relationship with citizens required for successful community policing will also expand the opportunities and incidence of police corruption. We believe that community policing may increase opportunities for corruption. Nonetheless, the value of the program to effective law enforcement and its commensurate benefits to the community far outweigh the risks involved. Community policing will, however, require that Internal Affairs be ever vigilant of the risks community policing presents.

Officers determined to engage in corruption will seek and find opportunities to do so whether or not they are community policing officers. Recent investigations conducted by the Commission and other agencies turned up corrupt officers assigned to a variety of commands, such as patrol, anti-crime, and the Organized Crime Control Bureau. The predominant forms of corruption we found, furthermore, offer opportunities to all officers working in drug-infested, cash-laden precincts regardless of their assignments. The police attitudes and pressures that foster and conceal corruption apply equally to all officers regardless of their particular assignment. In light of these circumstances, police corruption controls must be applied equally to whatever commands or individuals are susceptible to corruption.

Nonetheless, there are specific corruption control measures the Department should adopt in light of the characteristics of community policing. In particular, these measures should focus on educating the community about corruption hazards that officers face and their role in identifying and reporting suspected wrongdoing among the police officers on their beat. Having an educated and watchful community is particularly important for reducing the corruption risks of community policing. Because community policing must allow officers to have flexible tours of duty and sufficient discretion to determine the time and manner of their patrol, it presents special problems for close supervision. Consequently, the Department must achieve partnership with citizens to oversee the conduct of community policing officers.

To accomplish this, the Department must teach the public about what constitutes police corruption, how to report corruption they may observe or suspect, and support them when they make a valid complaint. More than anything else – through its precinct commanders, precinct councils, and community affairs programs – the Department must overcome the public's cynicism about the Department's commitment to integrity and its willingness to take their complainants seriously. If community policing is to succeed, mutual respect and cooperation between the police and the community must be achieved.

On the other hand, the Department must also educate citizens that police corruption does not exist in a vacuum and that those who solicit corrupt acts from police officers or assist them in engaging in corruption will be arrested and prosecuted. The 30th Precinct investigation demonstrated that citizens, whether they be drug dealers, shop owners, building superintendents, or local residents, participate in and assist officers in corruption schemes. Through arrests, prosecutions, and community outreach, the Department must put such people on notice that corruption investigations will focus on their activities as well as on the corrupt officers with whom they associate. As in the 30th Precinct case, the Department must show the public that it will arrest and prosecute citizens who are accomplices to police corruption.

In light of these observations, the Commission recommends the following measures:

- Expand and promote the Citizen's Police Academy program and other community outreach efforts, to educate citizens about corruption hazards and the role of the community in minimizing corruption.
- Community policing supervisors should provide information to local residents and businesses about corruption hazards and how to report corruption to the Department.
- Community policing supervisors should regularly interview local residents and business persons about the performance of the officers in their units.

- Commanding officers and Internal Affairs representatives should address precinct community councils on police corruption, the community's role in reducing corruption risks, and the means of reporting corruption to the Department.
- Internal Affairs should conduct pro-active investigations, including integrity tests, against individuals who create corruption opportunities or assist officers in engaging in corruption.
- Precinct numerals and other identifying marks on radio motor patrol cars should be made larger and more easily recognizable to citizens and police supervisors.
- Internal Affairs investigations and intelligence-gathering should focus on individuals who act as accomplices to officers in corruption schemes.

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The Commission believes that the implementation of these procedural and policy reforms will considerably strengthen the Department's integrity controls and help insure the public's confidence in the Department's ability to police itself.

No integrity controls, however, will last forever without the demand of the public and the commitment of the Department to insure that they remain effective. We cannot, as we have done too often in the past, place absolute faith in any set of reforms to insure integrity and defeat complacency for the next generation and beyond. Too often, our faith turned out to be blind. Without integrity controls rooted in the Department's own pride and commitment, no set of reforms – no matter how creative and well devised – can work. History has taught us that the Department cannot sustain reform efforts without incentive and support from the outside. Thus, an external entity independent of the Department must provide continual monitoring and pressure to insure that the Department makes successful integrity controls a high priority now and in the future. The Department and the public deserve no less.

## **CHAPTER SIX**

### **HELPING THE POLICE TO POLICE THEMSELVES: THE NEED FOR INDEPENDENT, EXTERNAL OVERSIGHT**

**“A considerable momentum for reform has been generated. . . . After previous investigations, the momentum was allowed to evaporate. The question now is: Will history repeat itself? Or does society finally realize that police corruption is a problem that must be dealt with and not just talked about every twenty years?”**

**-- Knapp Commission Report  
December 26, 1972**

Since the creation of this Commission, the Department has made important progress toward correcting its fundamental problems of corruption and corruption control. An anti-corruption apparatus that had been allowed to collapse is being resurrected for the first time in a generation. On the investigative front, the Department has aggressively assisted this Commission recently in a number of cases we brought to its attention. In the 30th Precinct case, for example, Internal Affairs investigators worked side-by-side with Commission investigators, and federal and local prosecutors, to ferret out extensive corruption in the 30th Precinct. Commitment to uncovering the full extent of corruption there was unflinching. The Department now seems to recognize that the appearance of integrity is no longer more important than its reality.

The question now is -- as twenty years ago -- will this momentum for reform continue after this Commission has disbanded and public attention turns away from issues of police reform? History strongly suggests that there is little chance for an affirmative answer to that question unless the momentum for reform becomes institutionalized within and without the Department. The erosion of the Department's corruption controls is an inevitable consequence of its recurring reluctance to uncover corruption -- unless some countervailing pressure compels the Department to do what it naturally strays from doing. As happened in the wake of the Knapp Commission, the mere establishment of this Commission created such a pressure and commitment that improvement resulted. But the findings of this Commission also show that the vigilance of the last generation failed to survive the Department's natural desire to protect itself from scandal. Our challenge is to preserve the Department's new-found vigilance and commitment from the inimical forces of history.

For the past century, police corruption scandals in New York City have run in a regular twenty-year cycle of scandal, reform, backslide, and fresh scandal. In 1894, a New

York State Senate Committee, known as the Lexow Committee, found systematic extortion and bribery among New York City police. Almost twenty years later, the Curran Committee, appointed by the New York City Board of Aldermen, found systemic police extortion of gambling and prostitution houses. Twenty years later, in 1932, Samuel Seabury, counsel to a State legislative committee, conducted an investigation that found widespread police extortion of gamblers and bootleggers. Two decades later, on September 15, 1950, the Kings County District Attorney's Office arrested Harry Gross, the leader of a large-scale gambling racket, who cooperated with the District Attorney and inculpated seventy-eight police officers for participating in an intricate and lucrative bribery scheme that included high-ranking members of the Department. In 1972, the Knapp Commission issued its Final Report that declared police corruption to be a standardized and Department-wide phenomenon.

How to break this cycle has been the focus of much of the Commission's deliberations. The Commission carefully considered a number of proposals aimed at institutionalizing a lasting commitment to integrity. Underlying our consideration of these proposals was our firm belief that the Department must remain chiefly responsible for policing itself if lasting reform is ever to be achieved. The fundamental principle that guided our deliberations is that the Department must deliver itself from the scourge of corruption. To allow otherwise will only renew complacency, diminish institutional accountability, and scuttle commitment to integrity.

We believe it is impossible for the Department to bear that responsibility without the help of independent external oversight. As history has taught us, the Department will always be vulnerable to the powerful internal pressure to avoid uncovering corruption. Only independent oversight will compel the Department to accomplish what it naturally wants to avoid: uncovering corruption among its own ranks. Only the existence of an independent, external, effective corruption control monitor outside the Department's chain of command will serve as a continuing pressure upon the Department to purge itself of corruption. At the same time such an independent monitor will serve to assure the public that corruption disclosures signal a vigilant Department rather than a wholesale failure of its integrity. Only such a permanent institutional structure, we believe, will break the historical cycle of scandal, reform, and backslide.

In determining the appropriate model for independent oversight, the Commission considered and rejected several models.

## **I. DEFICIENCIES OF THE OFFICE OF THE STATE SPECIAL PROSECUTOR MODEL**

One such model was the Office of the State Special Prosecutor. The Special Prosecutor's Office was established at the recommendation of the Knapp Commission in September 1972. Contrary to the perception of many who have advocated reestablishing that office, the Special Prosecutor's functions were, in practice, limited primarily to prosecutions. It had no responsibility -- or authority -- to oversee or assess the effectiveness of the Department's corruption controls, and the conditions that allow corruption to flourish.

The Knapp Commission premised its recommendation of a Special Prosecutor on its fundamental belief that a principal concern in the fight against police corruption was the prosecutors. They found that because the District Attorneys depended largely on police officers to conduct investigations and prosecutions, they suffered from an inherent conflict of interest in bringing prosecutions against corrupt officers. That Commission also found that the close alliance between the Department and the District Attorneys caused great distrust among the public and honest police officers about the willingness of the District Attorneys to entertain and investigate allegations of police corruption.

This Commission does not believe that local or federal prosecutors are reluctant to investigate and prosecute corrupt police officers today. Nor have we found that the public typically questions prosecutors' ability to aggressively pursue such cases. On the contrary, we found that both federal and local prosecutors were eager for us to refer evidence of police corruption to their offices for prosecution and that they are moving forward based on our evidence.

Indeed, since the dissolution of the Special Prosecutor's Office in October 1990, the District Attorneys have committed resources and personnel to special corruption units dedicated exclusively to investigating and prosecuting official corruption. Some of the District Attorneys have even housed these units in locations away from their main office to encourage complainants and assure confidentiality. The District Attorneys have financed these measures from their own budgets despite not having received the additional funding that was to be redistributed to them from the budget of the Special Prosecutor's Office.

Some have suggested that the prosecutors' interest in police corruption cases began only after the creation of this Commission -- and only after police corruption cases became the center of public and media attention. While it is true that the number of police corruption prosecutions in our City increased after the establishment of this Commission, it does not appear that prosecutors ever refused to pursue corrupt police officers. We do not believe it necessary or desirable to supplant the authority of local prosecutors with yet another prosecutorial agency. We do believe it essential to devise a mechanism to sustain and heighten prosecutors' interest in police corruption after this Commission completes its work. The independent oversight model we recommend will help accomplish just that.

We would further note the fundamental problem with reinstituting the Special Prosecutor's Office is that it will not remedy the principal corruption control deficiencies we have identified. It is a tough-sounding idea that will not cure the problem. A Special Prosecutor's Office will -- by dint of its mandate -- do just as its name signifies, and no more: prosecute. While no one disputes that successful prosecutions of corrupt officers is a vital component of corruption control, it is not the exclusive one. As we have shown throughout this Report, effective corruption control must penetrate all operations of the Department and cannot depend solely on prosecutions. Quality prosecutions will do little to improve commitment, recruitment, screening, training, supervision, accountability and all the many other necessary ingredients of successful corruption control.

To achieve that goal, there must be continuous, external scrutiny of the patterns and causes of corruption, and the policies and procedures the Department employs to combat them. There must be regular inquiries and audits of such areas as recruitment, screening, training, supervision, police culture, and command accountability as well as methods of prevention and deterrence. The Department does not merely need more surgery to root out the cancer of corruption, it needs large doses of preventive medicine to insure that its commitment to integrity does not again atrophy. A prosecutor's office, by nature, simply cannot provide that kind of therapy. Since its mandate -- as well as its public reputation and budget -- will inevitably focus on its prosecution record, it will be dedicated to prosecuting rather than providing what the Department really needs. A Special Prosecutor will not insure that the Department conducts regular and aggressive integrity tests; that supervisors effectively oversee their subordinates; that commanders are held accountable for their willful blindness; or that conditions of police culture that nurture and conceal corruption disappear. For these reasons, the Commission concluded that the best remedy to deal effectively with the problem of police corruption would not be the recreation of a Special Prosecutor's office.

## **II. DEFICIENCIES OF THE INSPECTOR GENERAL MODEL**

Another model that the Commission considered was the establishment of an Inspector General's Office to replace Internal Affairs in the investigation of corruption within the Department. Some urge that the Department has consistently demonstrated its inability and unwillingness to police itself successfully -- and should therefore no longer have the responsibility or authority to do so. The creation of an inspector general, many asserted, was the only way to root out corruption that the Department naturally prefers to minimize or conceal. All levels of government, they point out, have recognized the value of an independent inspector general. Virtually all federal, state, and local agencies are investigated by an inspector general's office that is independent from the agency it oversees. In New York City, in particular, the Department of Investigation employs a cadre of independent inspectors general responsible for investigating corruption in every City agency



– except the Police Department. It is urged that the Department no longer remain the exception to the rule of independent investigative oversight.

While we are convinced of the necessity of independent oversight, we rejected the Inspector General proposal because it wholly strips the Department of its capacity – and, most important, its responsibility – to investigate itself. We believe that the Police Department is the entity best able to prevent and investigate corruption among its members. It is the Department that best understands the corruption hazards facing cops, the culture that protects it, and the methods that can most effectively uncover it. The challenge is to devise a structure that compels the Department to do just that. The Inspector General model does just the opposite: it lets the Department off the hook in the battle against corruption, and eliminates its accountability for battling it successfully. Corruption would no longer be the Department's problem, but the Inspector General's problem. The fight against corruption can only be won if the Department itself is committed to aggressively investigate and uproot corruption on all fronts. We believe the dual-track model that we propose will insure that the Department does just that.

### **III. THE COMMISSION'S PROPOSED INDEPENDENT OVERSIGHT MODEL**

Combining these two necessary principles of lasting reform – independent oversight and command accountability – was the challenge we faced in formulating a means to make vigilance and zeal enduring features of the Department's internal integrity controls. An effective program of reform must both heighten the Department's ability and will to combat corruption internally, and must create an external independent mechanism to insure that such ability and will do not meet a quick demise.

The Commission therefore urges a dual-track strategy for improving police corruption controls. The first track, addressed in Chapter Five, focuses on strengthening the Department's entire anti-corruption apparatus with equal emphasis on improving the quality of recruits, enhancing police training, strengthening supervision, upgrading methods of prevention, strengthening internal investigations, enforcing command accountability, and attacking the root causes and conditions that spawn corrupt acts.

The second track urges the creation of a permanent external Police Commission, independent of the Department to: (i) perform continuous assessments and audits of the Department's systems for preventing, detecting, and investigating corruption; (ii) assist the Department in implementing programs and policies to eliminate the values and attitudes that nurture corruption; (iii) insure a successful system of command accountability; and (iv) conduct, when necessary, its own corruption investigations to examine the state of police corruption. This Police Commission would make recommendations for improving the Department's integrity and will deliver periodic reports of its findings and recommendations

to the Mayor and the Police Commissioner for appropriate action. In essence, the Police Commission would serve as a management tool for the Mayor and Police Commissioner, and a watchdog for the public. It would identify problems of police corruption and corruption control that need immediate attention and insure that the Department will not again fall victim to the pressures that work to corrupt its anti-corruption systems.

The Police Commission must have its own investigative capacity to carry out its mission of gauging the state of corruption, assessing corruption controls, and identifying corruption hazards. It must be empowered to conduct its own intelligence gathering operations, self-initiated investigations, and integrity tests. But, unlike a traditional inspector general, this capacity is not meant to replace the Department's or other law enforcement corruption efforts. On the contrary, it is designed to insure that the Department continues to police itself effectively by aggressively pursuing corruption where it likely exists and that it becomes -- for the first time -- accountable for doing so to an authority outside its own chain of command. At the same time, such an arrangement leaves the responsibility for corruption control clearly with the Department, without the risk of blurred responsibility or institutional buck-passing that might result from the creation of a special prosecutor or inspector general.

The power to undertake investigations is crucial to the Police Commission's task of insuring the high performance of integrity controls and the swift identification of corruption trends. During the course of this Commission's work, for example, we observed a number of police commands with substantial corruption hazards that Internal Affairs had made little or no effort to investigate. Having an investigative staff allowed us to probe some of those commands and thereby compel Internal Affairs to undertake a full-blown investigation or risk having the Commission bring a case to fruition without its participation. We found that this strategy quickly motivated the Department's anti-corruption machinery. Without such a capacity, we believe it unlikely that the Department would have responded to the Commission's evidence -- or attempted to generate its own -- as quickly or aggressively as it did. The new Police Commission, moreover, will insure that evidence of corruption is promptly referred to the appropriate prosecutor with whom it would cooperate and monitor the progress of the prosecution. In that way, it will help produce swift and certain prosecution of corruption without the need for a special prosecutor.

The Police Commission's investigative capacity, furthermore, is necessary to provide the Mayor and the Police Commissioner with the ability to call upon an independent agency to assist in conducting special projects or investigations. For example, if a high-ranking member of the Department or an Internal Affairs official is implicated in wrongdoing, the Mayor or Police Commissioner could call for the participation of Police Commission investigators to insure the integrity of the investigation. The Police Commission should also assist the Department to conduct command accountability inquiries in the wake of corruption disclosures, such as in the 30th Precinct, and insure that favoritism and Department politics play no role in determining the management or supervisory failures of

police commanders. By having an investigative arm, therefore, the Police Commission can provide the Mayor and Police Commissioner with an independent look at a variety of corruption issues without having to depend exclusively on information from within the Department's own chain of command.

At the same time, we are mindful of the fiscal restraints under which the City must operate. We do not recommend the creation of a large and costly bureaucracy. We recommend that the new Police Commission be headed by five reputable and knowledgeable citizens appointed by the Mayor who will serve *pro bono*. We further recommend that the Commissioners have a limited, staggered term of office to guarantee turnover, avoid staleness, and prevent the development of a long-term bureaucratic relationship with the Department that could compromise the Police Commission's independence.

To accomplish its tasks, the Police Commission should have unrestricted access to the Department's records and personnel. It should have the power to subpoena witnesses and documents; the power to administer oaths and take testimony in private and public hearings; and the power to grant use immunity.

With the aforementioned powers, the Police Commission could perform its work, as did this Commission, with a small staff of approximately ten to fifteen people with varied expertise, including attorneys, investigators, police management experts, and organizational and statistical analysts. To the extent additional personnel is required, the Police Commission should be free to draw upon the resources of other agencies on an as needed basis, as this Commission has done.

The Police Commission must cooperate with and assist the Police Commissioner to implement and evaluate integrity programs and policies, neutralize the corruptive effects of police culture, maintain strong accountability among commanders, and enhance productive relationships with the community.

As we set forth in our Interim Report, the Police Commission should assume a variety of functions in overseeing the policies and procedures for preventing and detecting police corruption. The Police Commission's oversight and reporting duties will focus primarily on the following three areas:

### **Monitoring Performance of Anti-Corruption Systems**

The Police Commission should:

- undertake studies and analyses to assess the quality of the Department's corruption controls;

- insure that the Department has effective methods for receiving and recording corruption allegations and assuring the confidentiality of complainants and witnesses;
- insure that the Department performs regular and effective corruption trend analyses that are used to identify areas for self-initiated investigations;
- assess the quality of investigative resources and personnel, and insure that the Department employs effective methods and management in conducting corruption investigations;
- insure that the Department consistently uses pro-active investigatory techniques and no longer relies on a reactive investigative system that narrowly focuses corruption investigations on isolated complaints and individual officers;
- insure that the Department has successful intelligence-gathering systems in place, such as effective undercover, field associate, and integrity testing programs;
- evaluate Department policy concerning command accountability and supervision, including levels and quality of first-line supervision, training of supervisors and integrity history in determining assignments and promotions;
- insure the Department involves field commanders, supervisors, and integrity control officers in corruption investigations and enlists their assistance;
- insure that the Department successfully enforces a system of command accountability;
- insure that Internal Affairs maintains a productive liaison with field commanders about corruption hazards and corruption prevention within their commands;
- require the Department to produce reports on police corruption and corruption trends including, analysis of the number of complaints investigated and the disposition of those complaints, the number of arrests and referrals for prosecution, and the number of Department disciplinary proceedings and the sanctions imposed; and
- conduct performance tests and inspections of the Department's anti-corruption units and programs to guarantee that the Department continually enhances its capacity to police itself.

### **Monitoring Cultural Conditions**

The Police Commission should:

- undertake studies and analyses of the impact of police culture on matters of integrity;
- insure that the Department acknowledges and makes efforts to reform the conditions and attitudes that nurture and perpetuate corruption;
- assess the effectiveness of recruit education, integrity training, field training operations, in-service training programs, and the integrity standards set by supervisors;
- insure that the Department works to eliminate corruption tolerance and the code of silence;
- evaluate the Department's efforts to overcome police attitudes that isolate them from the public and often create the appearance of a hostile and corrupt police force;
- evaluate Department efforts to pursue and uncover brutality and other civil rights violations and their connection to corruption;
- investigate whether the Department routinely assigns officers with discipline problems to only certain commands within the Department, such as high-crime, minority precincts;
- evaluate the effectiveness of the Department's drug and alcohol abuse policies, prevention treatment, and detection efforts; and
- maintain liaison with community groups and precinct community councils to provide the Department with input from the public about their perception of police corruption and to obtain information for the Commission's recommendations for reform.

## **Monitoring Corruption Trends**

The Police Commission should:

- identify through intelligence sources and integrity tests patterns of corruption and corruption-prone officers and commands;
- evaluate and report to the Department the extent of complicity in detected police corruption among fellow officers and supervisors, either by their participation in corrupt acts or by their silence; and
- conduct any investigation or inquiry into corruption or corruption-related issues as requested by the Mayor or Police Commissioner.

## **Conclusion**

The consequences of police corruption are devastating for our police officers, our government, and our society. When charges of corruption are levelled at the police, we as a society are justifiably alarmed and become cynical about the rule of law. And rightly so. With crime uppermost on the minds of citizens today, we look to our police more than ever as our primary protectors. When the integrity and commitment of the police are called into question, the community is doubly harmed. When police credibility is tarnished, officers' ability to enforce the law is hampered on the streets and in the courtrooms. Cooperation and mutual respect between the public and the police are vital to effective law enforcement. When that erodes, so too does the Department's ability to fight crime. A foundation of our criminal justice system thus begins to crumble.

The community is further harmed because we lose the peace of mind we depend on law enforcement to provide, especially when crime and violence are rampant. When we learn that police officers are more interested in profiting from the community than protecting it, our confidence in the Department's ability to protect us understandably wanes.

And so it is incumbent on the public to continue to demand that the Department and our elected officials do everything necessary to insure the integrity of our police. The creation of a permanent independent police monitor will fulfill that responsibility.

But it is still the Department's vast majority of honest and dedicated officers who have the greatest incentive – and ability – to insure the Department's lasting integrity. It is they who know where corruption might exist; it is they who suffer the most immediate consequences of their colleagues' corruption; and it is they who can best help uproot it. For these reasons, the honest officer, most of all, must work to stop corruption or be prepared

to feel the quiet pain expressed by Lieutenant Robert McKenna during the Commission's public hearings:

But you know what really hurts? It's when he [the honest officer] goes to pick up his kids from school. Because parents talk, kids listen; they're at school, they talk among themselves. A little kid comes in, he sits in the back seat. He's got bright eyes and he looks at his Daddy. He says, 'Daddy, do you steal money?' The cop's stomach tightens. Some cops cry silently. Others just wish it was a bad dream, and it'll go away.

It is the Commission's hope, and belief, that this Report's findings and recommendations will put an end to that bad dream for the people of our City, for our police officers, and for our children -- both today and in generations to come.

# **APPENDIX**



## **APPENDIX**

### **Exhibit One**

Executive Order No. 42 issued by The Honorable David N. Dinkins,  
Mayor of the City of New York, on July 24, 1992,  
Appointing the Commission to Investigate  
Allegations of Police Corruption and the  
Anti-Corruption Procedures of the New York  
City Police Department

### **Exhibit Two**

Opening Statement by The Honorable Milton Mollen,  
Commission Public Hearings, September 27, 1993

### **Exhibit Three**

Mid-Hearings Statement by The Honorable Milton Mollen,  
Commission Public Hearings, October 4, 1993

### **Exhibit Four**

Exhibits presented at the Commission Public Hearings,  
September 27, 1993 through October 7, 1993

### **Exhibit Five**

Letter dated December 27, 1993 to Mayor David N. Dinkins  
from The Honorable Milton Mollen

### **Exhibit Six**

Commission's Interim Report and Principal Recommendations,  
dated December 27, 1993

### **Exhibit Seven**

New York City Police Department, Map of Patrol Precincts

## **Exhibit Eight**

### **The Failure to Apprehend Michael Dowd: The Dowd Case Revisited**

- The Failure to Apprehend Michael Dowd
- Sergeant Trimboli and the Brooklyn North FIAU
- Trimboli and the 75th Precinct
- The R&T Grocery Store Robbery
- Corruption in the 75th Precinct
- The Trimboli Investigation
- The Pro-Active Plan
- The 79th Precinct Investigation
- The Yurkiw Investigation
- Final Developments
- Comments

# **EXHIBIT ONE**

practices, procedures and methods for investigating specific allegations of corruption and the existing practices, procedures and methods designed to prevent corruption and maintain integrity; (2) recommend improvements in these practices, procedures and methods and make any additional recommendations that will ensure the integrity of the Police Department and prevent corruption; (3) take evidence and hold whatever hearings, public and private, the Commission may deem appropriate to ascertain the necessary facts.

Section 2. Members. The Commission shall consist of the following persons, who shall serve without compensation, and who are hereby appointed, as members thereof: Milton Mollen, Chairperson; Harold Baer, Jr.<sup>1</sup>; Herbert Evans; Roderick C. Lankler; and Harold Tyler.

Section 3. Powers. (a) The Commission, its Chair and such agents as the Chair shall designate, shall have all powers necessary to conduct as complete an investigation as it finds necessary, including but not limited to the powers to administer oaths and affirmations, to examine witnesses in public or private hearings, to receive evidence and to preside at or conduct such hearings and investigations.

(b) The Commission, its Chair and such agents as the Chair shall designate shall be designated by the Commissioner of Investigation as agents of the Department of Investigation, pursuant to Section 805 of the City Charter, with all powers to conduct investigations as provided therein.

(c) The Chair of the Commission shall be appointed a Deputy Commissioner of Investigation, pursuant to Section 802 of the City Charter, with all powers pertaining to that office, including but not limited to those specified in Section 805(a) of the City Charter.

(d) The Commission may also cooperate with any criminal investigation, as may become necessary, pursuant to its powers under this Order.

(e) Within the scope of the general responsibility of the Commission set forth in Section 1 of this Order, the Commission shall have authority to examine and copy any document or other record

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<sup>1</sup> Upon his retirement as a Justice of the Supreme Court of the State of New York.



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

**EXECUTIVE ORDER NO. 42**

**July 24, 1992**

**COMMISSION TO INVESTIGATE ALLEGATIONS OF  
POLICE CORRUPTION AND THE ANTI-CORRUPTION  
PROCEDURES OF THE POLICE DEPARTMENT**

WHEREAS, an honest and efficient police force is essential to the well-being of the City and the implementation of the Police Department's innovative community policing strategies; and

WHEREAS, during the next two years the Safe Streets, Safe City Program will add more than two thousand officers to the Police Department of the City of New York, most of whom will be assigned to patrol the streets of the City; and

WHEREAS, allegations of corruption have been made against some members of the Police Department, and the effectiveness of the practices, procedures and methods used by the Police Department to prevent and detect misconduct and to maintain integrity have been questioned; and

WHEREAS, an investigation by the Police Department of those allegations would be subject to question by the public; and

WHEREAS, the misdeeds of a few must not be allowed to sully or taint the reputations and sacrifices of the vast majority of honest and dedicated men and women who serve on the police force;

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Establishment of Commission. There is hereby established a Commission to (1) inquire into and evaluate the existing

(b) All departments or agencies of the City shall make available to the Commission such facilities, services, personnel and other assistance as may be necessary for the conduct of its investigations.

(c) All departments or agencies of the City shall provide to the Commission upon request any and all documents, records, reports, files or other information relating to any matter within the jurisdiction of the Commission, except such documents as cannot be so disclosed according to law. To insure full availability of such documents, records, reports, files or other information to the Commission, all City departments and agencies shall make and retain copies of any documents, records, reports, files or other information provided to state or federal prosecutors, or other investigative bodies, pursuant to subpoena or otherwise.

(d) All officers and employees of the City shall cooperate fully with the Commission. Interference with or obstruction of the Commission's investigations or other functions shall constitute cause for removal from office or employment, or other appropriate penalty.

(e) All officers and employees of the City shall have the affirmative obligation to report, directly and without undue delay, to the Commission, any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity (i) by any member of the uniformed force or any other officer or employee of the Police Department, which concerns his or her office or employment, or (ii) by persons dealing with the Police Department, which concerns their dealing with the Department, and shall proceed in accordance with the Commission's directions. The knowing failure of any officer or employee to so report shall constitute cause for removal from office or employment, or other appropriate penalty.

(f) The obligation to report information regarding corruption or criminal activity to the Commission shall be in addition to the reporting obligations imposed on City officers and employees to report such information to the Department of Investigation, pursuant to Executive Order No. 105, dated December 20, 1986.

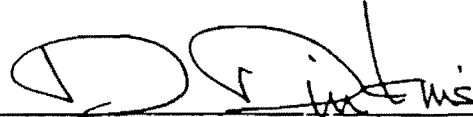
Section 5. Construction with Other Laws. Nothing in this Order shall be construed to limit the powers and duties of any department or agency under the City Charter or as otherwise provided by law.

prepared, maintained or held by the Police Department of the City of New York, and any other agency of the City, except those documents or other records which cannot be so disclosed according to law.

(f) The Commission shall have authority to require any member of the uniformed force or any other officer or employee or any former member of the uniformed force or any other former officer or employee of the Police Department of the City of New York or of any other agency of the City to attend an examination or hearing concerning any matter related to the performance of his or her official duties, and to require any person dealing with, or who has dealt with, the Police Department of the City of New York or its officers and employees to attend any examination or hearing concerning such dealings, and to require any person who has or may have knowledge relating to any matter within the jurisdiction of the Commission to attend any examination or hearing concerning such matter. If any member of the uniformed force or any other officer or employee of the Police Department of the City of New York or of any other agency of the City, or any person dealing with the Police Department of the City of New York declines to answer any question which is put to him or her, the Commission shall have the authority to advise the person that neither his nor her answer nor any information or evidence derived therefrom will be used against him or her in a subsequent criminal prosecution other than for perjury arising from such testimony. The refusal of any member of the uniformed force or any other officer or employee of the Police Department of the City of New York or of any other agency of the City of New York to answer questions on the condition described in this paragraph shall constitute cause for removal from office or employment, or other appropriate penalty. The refusal of any person dealing with the Police Department of the City of New York to answer questions on the condition described in this paragraph shall, pursuant to the appropriate provision of any contract, constitute cause for cancellation or termination of such contract with the Police Department of the City of New York or the City and its agencies that said person or any firm, partnership or corporation of which he or she is a member, partner, director or officer has entered into. The Police Department of the City of New York and the City and its agencies shall not incur any penalty or damages because of such cancellation or termination.

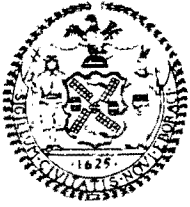
Section 4. Cooperation with Investigation. (a) Pursuant to my power as Mayor all heads of departments or agencies of the City shall make every reasonable effort to insure the full cooperation of all persons employed or supervised by them with investigations or inquiries conducted by the Commission.

Section 6. Effective Date. This order shall take effect immediately.

  
\_\_\_\_\_  
David N. Dinkins  
M A Y O R



## **EXHIBIT TWO**



THE CITY OF NEW YORK

**COMMISSION TO INVESTIGATE ALLEGED POLICE CORRUPTION**

17 BATTERY PLACE, NEW YORK, NY 10004 • (212) 487-7350 • FAX 487-7361

MILTON MOLLEN  
CHAIR

JOSEPH P. ARMAO  
CHIEF COUNSEL

HAROLD BAER, JR.  
HERBERT EVANS  
RODERICK C. LANKLER  
HAROLD TYLER

**Opening Statement by Judge Milton Mollen, Chair  
at Public Hearings**

**Monday, September 27, 1993**

On August 3, 1972, the Knapp Commission published the first installment of its final report. In describing the momentum for Police Department reform that existed at the time, that Commission issued a prescient challenge to future generations:

"The present situation is quite like that existing at the close of previous investigations. A considerable momentum for reform has been generated, but not enough time has elapsed to reverse attitudes that have been solidifying for many years in the minds of both the police and the public. After previous investigations, the momentum was allowed to evaporate.

The question now is: Will history repeat itself? Or does the society finally realize that police corruption is a problem that must be dealt with and not just talked about once every twenty years?"

Unfortunately, almost precisely twenty years later, it has become clear that the Police Department is still grappling with the corruption problem. On the basis of information brought to his attention, Mayor Dinkins found it essential, in the public interest, to appoint this Commission, with a mandate to ascertain the extent of corruption and to determine and

recommend the best means to deal with it most effectively.

For over a century, the history of police corruption investigations in New York has run in twenty-year cycles of scandal, reform, backslide, and fresh scandal. Despite what some cynics may say, we believe that this cycle is not inevitable, and should not, and cannot be accepted as inevitable. While it is imperative that we learn from history, we must be determined not to repeat its mistakes. Although no commission could hope to totally eliminate corruption among police--or I should point out, in any other profession or occupation--much can be done to deal more effectively with the problem.

For the last twelve months, the Commission and its staff have studied thousands of documents and interviewed hundreds of police and civilian witnesses in an effort to analyze the nature and causes of the corruption problem facing the Department in the past, the procedures the Department uses to combat it, and recommendations for lasting improvement in those procedures. The purpose of these hearings is to present our findings to the public. Thereafter, we will present a report with our recommendations to Mayor Dinkins and the public.

It is of critical importance that the public be made aware of the corruption hazards which confront the Police Department, its managers, its officers, and the citizens of New York City.

The Police Department is not a private business. It is a public trust that must always remain accountable to the public it is sworn to serve and protect. For most of us, a police officer is the law and a symbol of justice. In a civilized society, it is imperative that the members of the public have confidence and faith in the integrity of the members of the

Police Department. As a society, we have given the police officer special powers, not the least of which is the power to arrest and deprive someone of his liberty. Everyday, we allow our police to judge our conduct as citizens and, consequently, we citizens expect their conduct to adhere to the highest standards. When charges of corruption are levelled at the police, the public has a right to be alarmed and to demand an accounting and a solution. That is what this Commission, through its hearings and final report, intends to provide. We hope that by focusing the public's attention on the nature and causes of corruption and on the Department's performance in addressing the problem, the public will give its support to official action taken to insure a lasting remedy to the problem.

For its part, the public owes an obligation of respect and support for the police. Despite recent revelations of police corruption, this Commission can confidently report that each day throughout the year the vast majority of police officers throughout this city perform one of society's most important, sensitive and dangerous jobs with efficiency and integrity. The public can also be reassured by the fact that Police Commissioner Ray Kelly has focused a great deal of his time and attention on addressing problems of corruption and discipline within the Department. Since the publication of his report on the Michael Dowd investigation, the Commissioner has implemented a number of important reforms that, we expect, will strengthen the Department's corruption controls. He is to be commended for his diligence and commitment to improvement. We believe that the Commission's public hearings and recommendations will provide the Commissioner with further impetus and guidance in continuing his campaign of reform and will encourage the public to support him in putting his reforms into effect.

However, as the Commissioner noted in his Dowd report, this Commission's mandate is to provide a broader analysis of corruption-related problems than the Police Department has provided so far. To that end, the Commission divided its work into three phases: an investigation of the nature and causes of corruption as they exist today, an analysis of the Police Department's systems for detecting, rooting out and preventing corruption, and a formulation of recommendations to remedy the problems that our investigations and analysis have disclosed.

These hearings, accordingly, will be divided into three segments. The first segment will focus on the nature and causes of police corruption and the failure of the Department during past years to aggressively investigate and prevent it. You will hear testimony from a number of former and current police officers, and others who, for the first time, will publicly disclose the full extent of their experiences and knowledge of the kinds and causes of corruption that afflict the Department and the Department's inability to deal with the problem effectively. The witnesses will relate their individual experiences and observations in matters of police corruption and corruption investigations. The Commission has selected these witnesses to appear at this hearing not solely to focus the public's attention on their individual experiences, but because their individual experiences illustrate the broader issues of corruption and corruption control that confront the Department.

The second segment will address the failure of the Department's anti-corruption controls in past years. You will hear testimony from former and current police officers who have served the Department as internal affairs investigators, as supervisors, and as integrity training instructors. These officers have made the courageous decision to come forward to

reveal for the first time their insider's view of the failures of the Department's anti-corruption controls and their judgment about why such conditions were allowed to exist.

These officers, who, in the public interest, are demonstrating great moral courage, should be highly commended by the Police Commissioner, by the vast majority of police officers who are honest and incorruptible, and by the public at large, for stepping forward and breaching the traditional blue wall of silence.

The third segment will present recommendations for reform and more effective means of combatting corruption. The Commission unequivocally believes that the prime responsibility for insuring the integrity of the police rests unconditionally with the Department and its Commissioner who must retain the ultimate authority in order to be effective. The Department must remain responsible for keeping its own house in order but, at the same time, with that responsibility comes a total obligation to the public to perform its job honestly and efficiently. Thus, institutional reforms necessary to keep the Department's corruption controls ever-vigilant and accountable to the public will be the focus of the third segment. Furthermore, the Commission, on the basis of its investigation and analysis, has concluded that in order to assure the effectiveness and long duration of the reforms in combatting corruption instituted by Commission Kelly, as well as the additional steps he may take as a result of these hearings, thought must be given, by the Mayor and the public, as to the necessity for some form of outside independent oversight of the effectiveness of the Department's efforts in deterring and combatting corruption within the Department. Such outside entity may take one of several forms. Toward that end, we have examined the necessity for a dual track approach, namely, improved

effectiveness of internal policing within the Department on the one hand, and, on the other hand, an independent outside entity. We will hear testimony from a variety of people including former and current law enforcement officers, public officials and academic experts who will present their recommendations as to the best means to ensure that the Department's internal corruption controls become and remain effective for the long haul and do not again fall victim to the Department's historical enemies of backslide and scandal.

At the outset, I must provide a word of caution. The Commission's investigations and analysis were not primarily aimed at disclosing individual acts of wrongdoing or proving the guilt of individual police officers. In fact, one of our fundamental findings is that the problem of police corruption will not be solved solely by focusing exclusively on individual acts of wrongdoing. Nonetheless, particularly during the first segment, you will hear about crimes and acts of corruption committed by police officers. Though this evidence may arouse your concern, as it should, it by no means reflects the state of the Department as a whole. Quite the contrary. Our inquiries have shown that the New York City Police Department is one of the most honest and effective police forces in the world. The public and the media must not lose sight of that fact as the testimony unfolds. These hearings are not meant to be an indictment of the Department as a whole, but an exposition of the nature and causes of a Department problem that is a necessary step toward laying the groundwork for successful remedies to overcome the kind of problem we face.

When these hearings conclude, the Commission's work will continue. The evidence you will hear over the next several days will be presented in greater detail in the

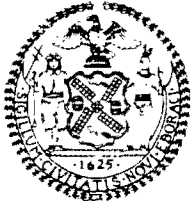
Commission's final report which is now in preparation and will be released as soon as it is ready.

But for now, as you listen to the evidence presented at these hearings, I ask you to keep in mind a fundamental point. Police corruption is a problem that cannot be solved exclusively by investigations and prosecutions that temporarily attract the public's attention through newspaper headlines. It is a condition that must be addressed on all fronts and in the daily operations of the Police Department: through appropriate recruiting, effective training, supervision, strict internal audits and procedures, effective corruption detection techniques, management accountability, public accountability, and most important, an unflagging commitment within the Department to deal with the problem of corruption candidly and effectively. That is the challenge that confronts the Police Department and the public--to devise a system of corruption control that will operate with vigilance, commitment, and public accountability, not only when public attention has focused on the problem of police corruption as it has during the past year, but with constant vigor, well after ephemeral pressure for reform has faded away.

This Commission's best hope is that the result of its work will give a final answer to the questions asked by the Knapp Commission twenty years ago, so that twenty years from now a new police corruption commission will not be asked to ponder the same questions.



# **EXHIBIT THREE**



THE CITY OF NEW YORK

**COMMISSION TO INVESTIGATE ALLEGED POLICE CORRUPTION**

17 BATTERY PLACE, NEW YORK, NY 10004 ■ (212) 487-7350 ■ FAX 487-7361

MILTON MOLLEN  
CHAIR

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HAROLD BAER, JR.  
HERBERT EVANS  
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HAROLD TYLER

**Opening Statement by Judge Milton Mollen, Chair  
at Public Hearings**

**Monday, October 4, 1993**

For four days, the Commission has presented its evidence of the nature and causes of police corruption through the testimony of police officers who committed corrupt acts and honest police investigators who were frustrated in their attempts to root it out. We have learned from the evidence that the type of police corruption we face today has changed from the type of corruption that existed in the days of the Knapp Commission. We can take heart from the fact that the Commission has found no evidence that the systemic and highly organized bribery "pads" of the 1970s and earlier years persist today. Nonetheless, it is distressing when we hear that the form police corruption takes today exhibits a truly invidious character: police officers associating with and profiting from drug traffickers, committing robberies, larceny, perjury, conducting warrantless searches and seizures, and assaulting citizens. Moreover, the evidence shows that these officers committed their crimes repeatedly and, most distressingly with impunity. It is clear that the consequences of police corruption reach beyond the individual act of wrongdoing to undermine the confidence of

the public in its police force and the safety and reputation of the overwhelming majority of police officers who are honest.

Police corruption undoubtedly plays a role in encouraging the process of juror nullification, whereby juries refuse to convict defendants, who in many instances are truly guilty, because the jurors doubt the credibility of police officers. Public confidence and faith in the integrity of police officers is imperative if community policing is to be effective in deterring crime and in aiding in the apprehension of criminals.

Thus the evidence set forth in the first part of these hearings inevitably leads to the central question of this next segment of our hearings: why did the Department's corruption controls fail to prevent and apprehend police officers who broke the law?

We have heard the answer to this important question suggested by some of the witnesses we have already heard. Over a long period of time the Department's commitment and capacity to prevent, detect, and prosecute police corruption has seriously eroded. In arriving at this unhappy conclusion, the Commission has spent considerable time and effort in analyzing the systems and procedures the Department has used since the time of the Knapp Commission to foster integrity and investigate corruption, and in assessing the Department's commitment to insure that its system of corruption control functioned effectively. These sessions will be devoted to presenting these findings to the public.

I ask the Commission's Chief Counsel to call the next witness.

# **EXHIBIT FOUR**

# CASE DEFINITIONS AND DISPOSITIONS

CASE DEFINITIONS	CASE OPEN CASE CLOSED							DISPOSITIONS
	1986	1987	1988	1989	1990	1991	1992	
'86-0449 - Officer Dowd and partner steal money from drug dealers, prisoners, and deceased persons								UNSUBSTANTIATED (Other misconduct noted)
'86-0039 - Officer Dowd and other officers used excessive force against a prisoner								UNSUBSTANTIATED
'87-2608 - 75th Precinct Police Officers frequent a drug location								UNSUBSTANTIATED
'87-2712 - Officer Dowd and partner accept \$8,000 per week from drug dealers								UNSUBSTANTIATED
'87-2525 - 75th Precinct Police Officers drink and use drugs in 'Auto Sound City'								UNSUBSTANTIATED
'88-0094 - Officer Dowd deals drugs								UNSUBSTANTIATED
'88-1396 - Armed robbery of R&T grocery store								THREE ARRESTED; DOWD NOT CHARGED
'88-966 - F.I.A.U. self-generated case into precinct-wide corruption within the 75th precinct								UNSUBSTANTIATED
'88-1554 - Officer Dowd's P.B.A. card recovered from known criminal								UNSUBSTANTIATED
'88-2352 - 75th Precinct Police Officers purchase and sell drugs								UNSUBSTANTIATED
'88-2060 - Dowd's former partner sells drugs								UNSUBSTANTIATED
'89-2385 - Former police officer alleges that several 75th Precinct Police Officers engage in drug use and other forms of corruption								UNSUBSTANTIATED
'89-2617 - D.E.T.F. informant alleges that he observed Officer Dowd use drugs								UNSUBSTANTIATED
'91-2456 - Federal informants allege that Officer Dowd worked for a drug ring								I.A.D. PRELIMINARY CASE
'91-2126 - Officer Dowd and partner accepted liquor from bar owner								INVESTIGATION SUSPENDED
'92-0522 - Suffolk County drug ring								OFFICER DOWD ARRESTED
	1986	1987	1988	1989	1990	1991	1992	

SOURCE: DATA SUPPLIED BY N.Y.P.D. AND COMPILED BY MOLLER COMMISSION

1. NAME: [REDACTED] ID: [REDACTED]

2. RATER: [REDACTED] RATER TITLE: [REDACTED]

3. OVERALL EVALUATION: [REDACTED]

4. RECOMMENDATION: [REDACTED]

5. RATER COMMENTS:

6. [REDACTED]

7. [REDACTED]

8. [REDACTED]

**NYPD EVALUATION OF  
MICHAEL DOWD • 1987  
(75th Precinct)**

**RATER COMMENTS**

\* \* \*

**This officer has excellent street knowledge; relates well with his peers and is empathetic to the community. This officer could excel within the New York City Police Department and easily become a role model for others to emulate if he maximized his inner drive to fulfill job responsibilities to the fullest. Must improve attendance and arrest activity. Good career potential.**

## **9TH PRECINCT POLICE CORRUPTION NETWORK INVESTIGATION**

**MARCH 25** Mr. X contacts MS/FIAU about police corruption network and barbecue

**MARCH 28** High level meeting at IAD with MS/FIAU

**APRIL 3** IAD closes 9th precinct case as unsubstantiated

**MAY 13** Buy #1: Mr. X buys drugs from P.O. Brown

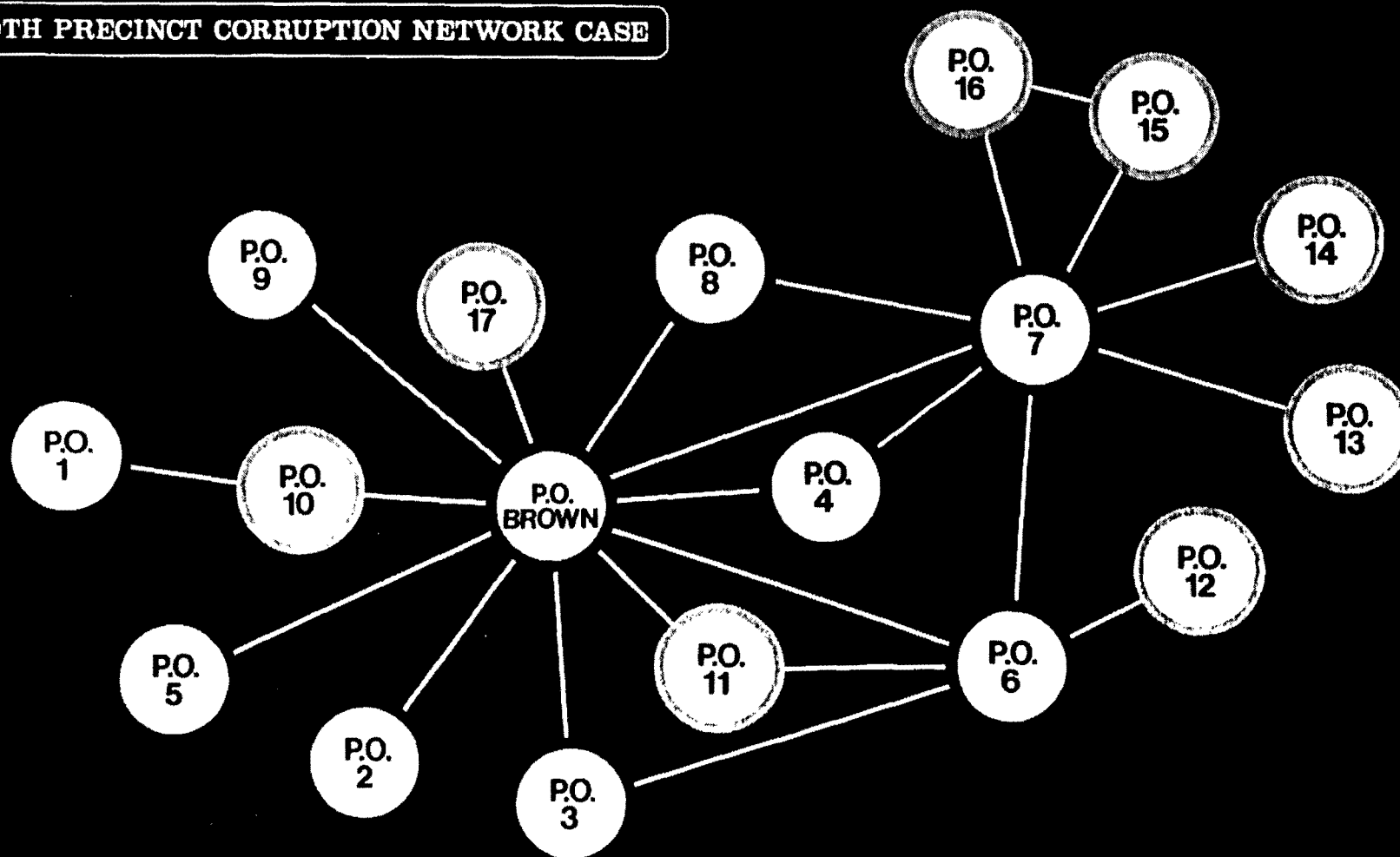
**JUNE 4** Buy #2: Mr. X buys drugs from P.O. Brown

**JUNE 14** Buy #3/Arrest: Mr. X buys drugs from P.O. Brown and P.O. Brown arrested

**22 DAYS LATER**

**JULY 6** Barbecue Scheduled Cancelled After Arrest

## 9TH PRECINCT CORRUPTION NETWORK CASE





## IAD INVESTIGATOR SURVEY

**QUESTION :** Do you believe the NYPD is committed to aggressively identifying and rooting out corruption?

**54% responded "NO" or "UNCLEAR"**

**COMMENTS :** "Politically sensitive cases were not always as aggressively pursued."

**QUESTION :** Are you so overloaded with work that you do not have sufficient time to devote to serious corruption cases?

**61% responded "NO"**

**COMMENTS :** "You must be kidding with me!!"

"I should have taken a typing course."

"In fact, I hardly work. You must understand, a detective here is not used as a detective should be used."

**QUESTION :** What portion of your time is spent doing:

- Investigation related activity in the field: 16%
- Investigation related activity in the building: 37%
- Non - investigation related activity: 46%
- Did not respond to the question: 1%

**QUESTION :** Have you ever felt that you were discouraged from fully investigating allegations of corruption?

**73% responded "OFTEN" or "SOMETIMES"**

**COMMENTS :** "Depending on the supervisor and if he would rather settle for 'white socks' or if he wants to go all the way to the serious part of the allegation."

"I've been told, 'Let's get what we came for, nothing else.'"

## TICKLER FILE CASE

**DANIEL F. SULLIVAN**

Chief of Inspectional Services



*Chief Beatty*

*Bob - Don't enter this one  
in any records until later.  
Assign to whoever you think  
is best fit to handle it*

*DS*

**Chief Beatty**

**Bob-Don't enter this one in any records  
until later.**

**Assign to whoever you think is best  
fit to handle it**

**D.S.**

## IAD ORGANIZATIONAL CHART

INTERNAL AFFAIRS  
DIVISION  
COMMANDING  
OFFICER

EXECUTIVE OFFICER

SPECIAL FUNCTIONS

INVESTIGATIONS  
SECTION

FIELD OPERATIONS  
SECTION

MANAGEMENT  
RESOURCES SECTION

### UNITS

SELF-INITIATED  
INVESTIGATIONS

NARCOTIC  
INVESTIGATION  
& PREVENTION

COMPLAINT  
INVESTIGATION

OTHER

### UNITS

ICO LIAISON

STAFF  
SUPERVISORY

FIELD INTERNAL  
AFFAIRS UNITS

PATROL AND OTHER  
FIELD COMMANDS

### UNITS

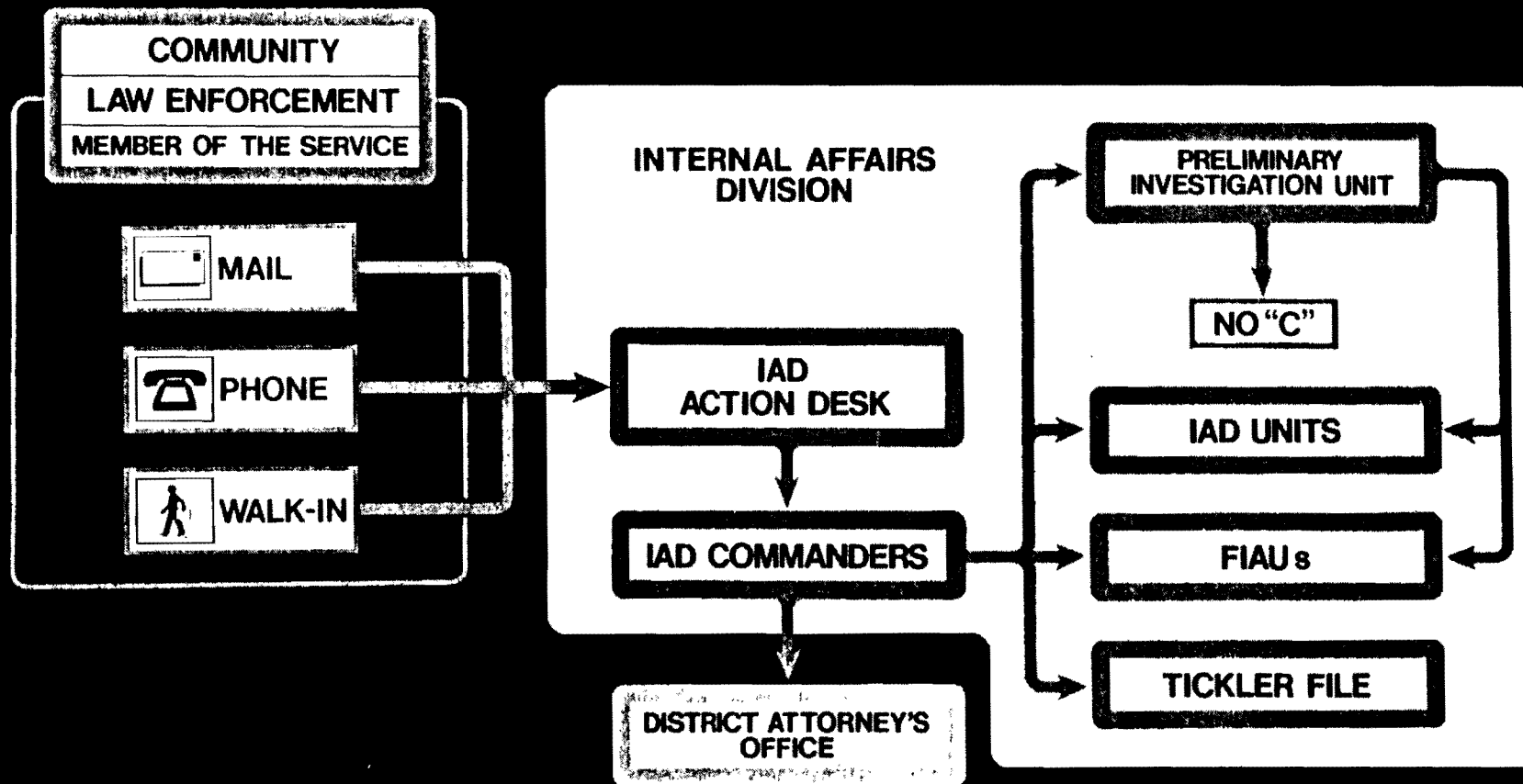
ACTION DESK

TRAINING

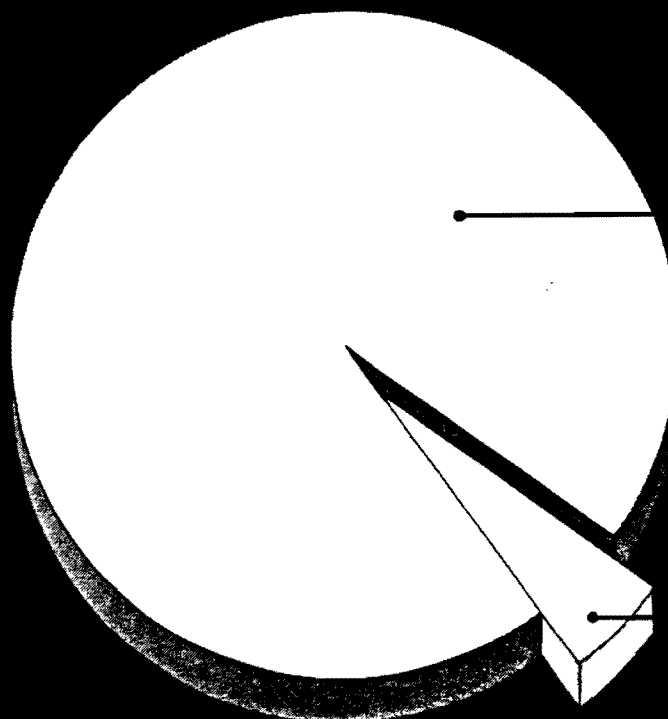
ANALYSIS

OTHER

## LIFE OF A CORRUPTION ALLEGATION ("C" CASE)



Of approximately 2,700 police corruption allegations  
filed with the N.Y. P. D. on average each year:



ASSIGNED  
TO FIAU 95%

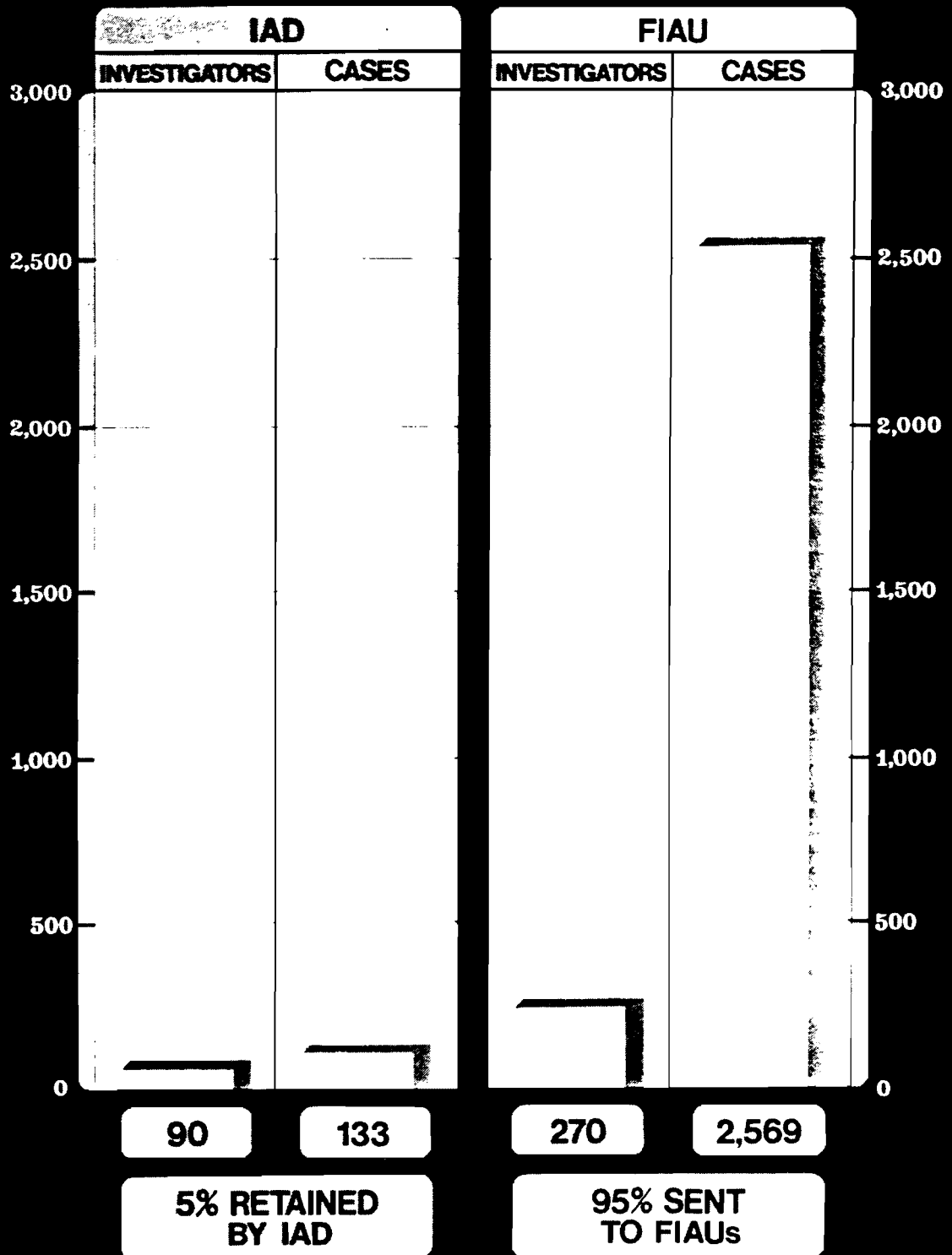
RETAINED  
BY IAD 5%

Of the 5% retained by IAD from 1988-1991  
approximately 30% are minor misconduct/abuse  
of department regulations including:

- Free pizza
- Off-post
- Personal use of department vehicle
- Misusing police parking permit to avoid paying tolls
- Off-duty employment as security guard
- Working out while on duty
- Drinking on duty
- Sleeping on duty
- Spends time in restaurant on duty

SOURCE: Data supplied by N.Y.P.D. and compiled by Mollen Commission

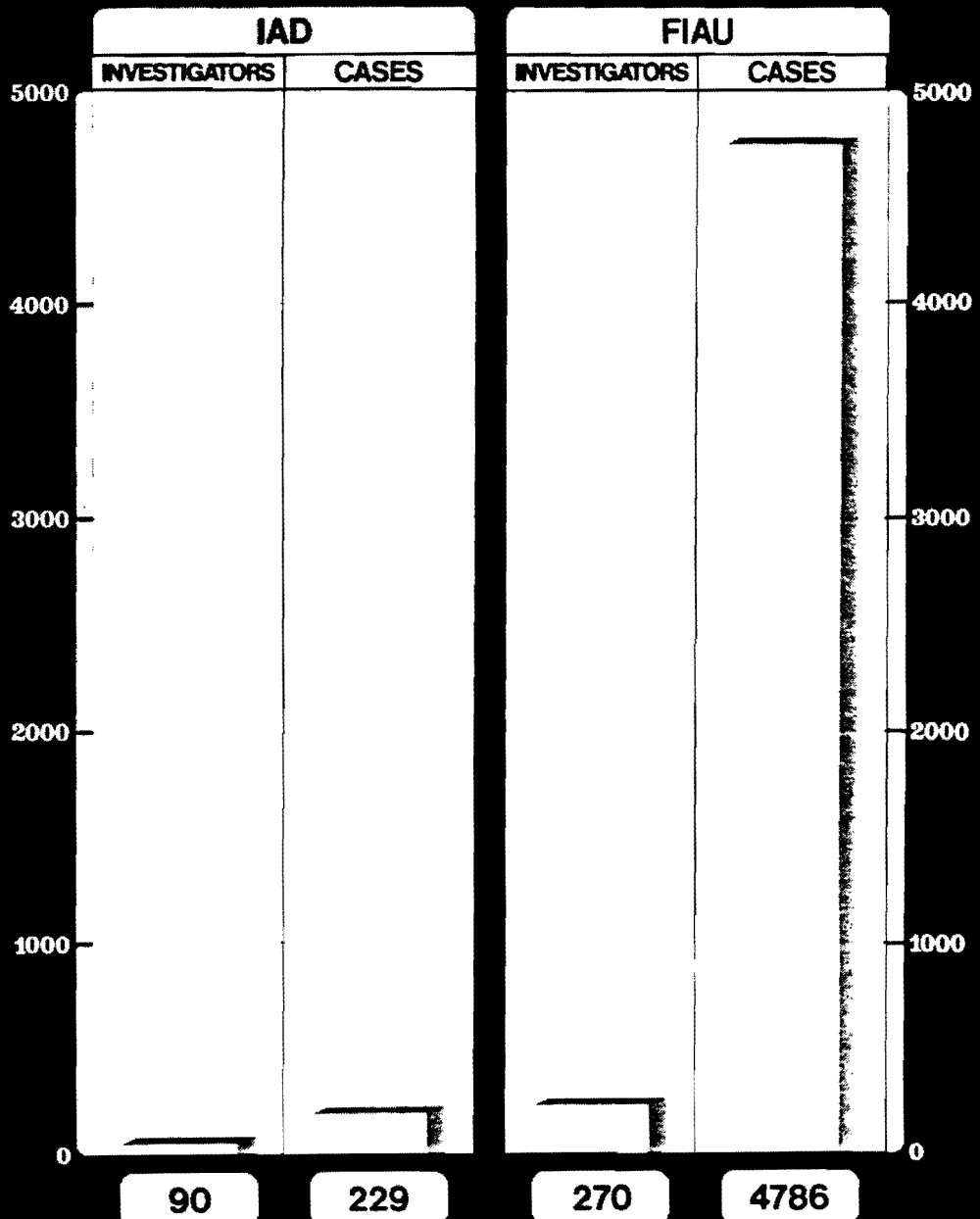
# IAD & FIAU TOTAL CORRUPTION CASES/INVESTIGATORS 1988-1992 AVERAGE



SOURCE: Data supplied by N.Y.P.D. and compiled by Mollen Commission

# **IAD & FIAU** **TOTAL OPEN CORRUPTION CASES/INVESTIGATORS** **UNDERLOAD vs. OVERLOAD**

1988 - 1992 AVERAGE

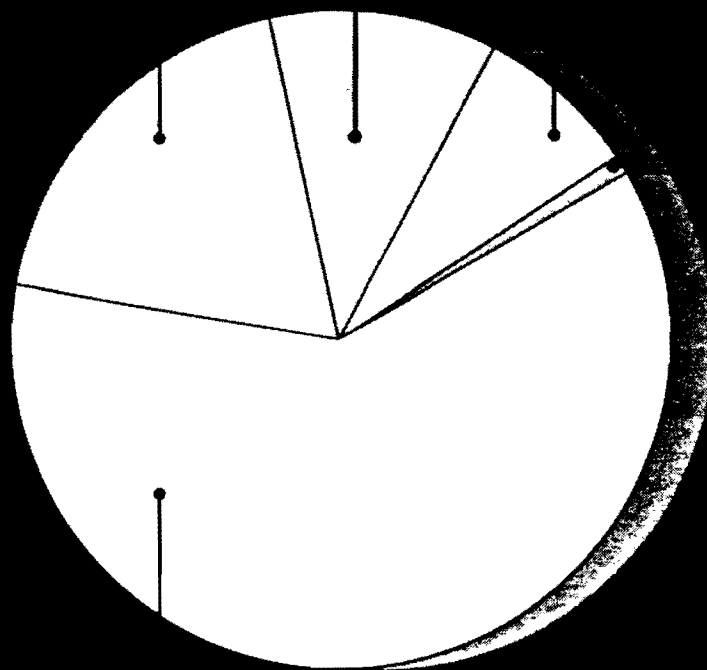


**AVERAGE OF 2.5 CASES  
PER INVESTIGATOR**

**AVERAGE OF 18 CASES  
PER INVESTIGATOR**

**AVERAGE OF 22 CASES  
PER PATROL BOROUGH  
INVESTIGATOR.  
SOME INVESTIGATORS  
HANDLE 30-40 CASES.**

**IAD CASE DISPOSITIONS • 5 YEAR AVERAGE 1988 - 1992**



UNSUBSTANTIATED  
(NO RESULT) 61%

SUBSTANTIATED 19%

PARTIALLY  
SUBSTANTIATED 11%

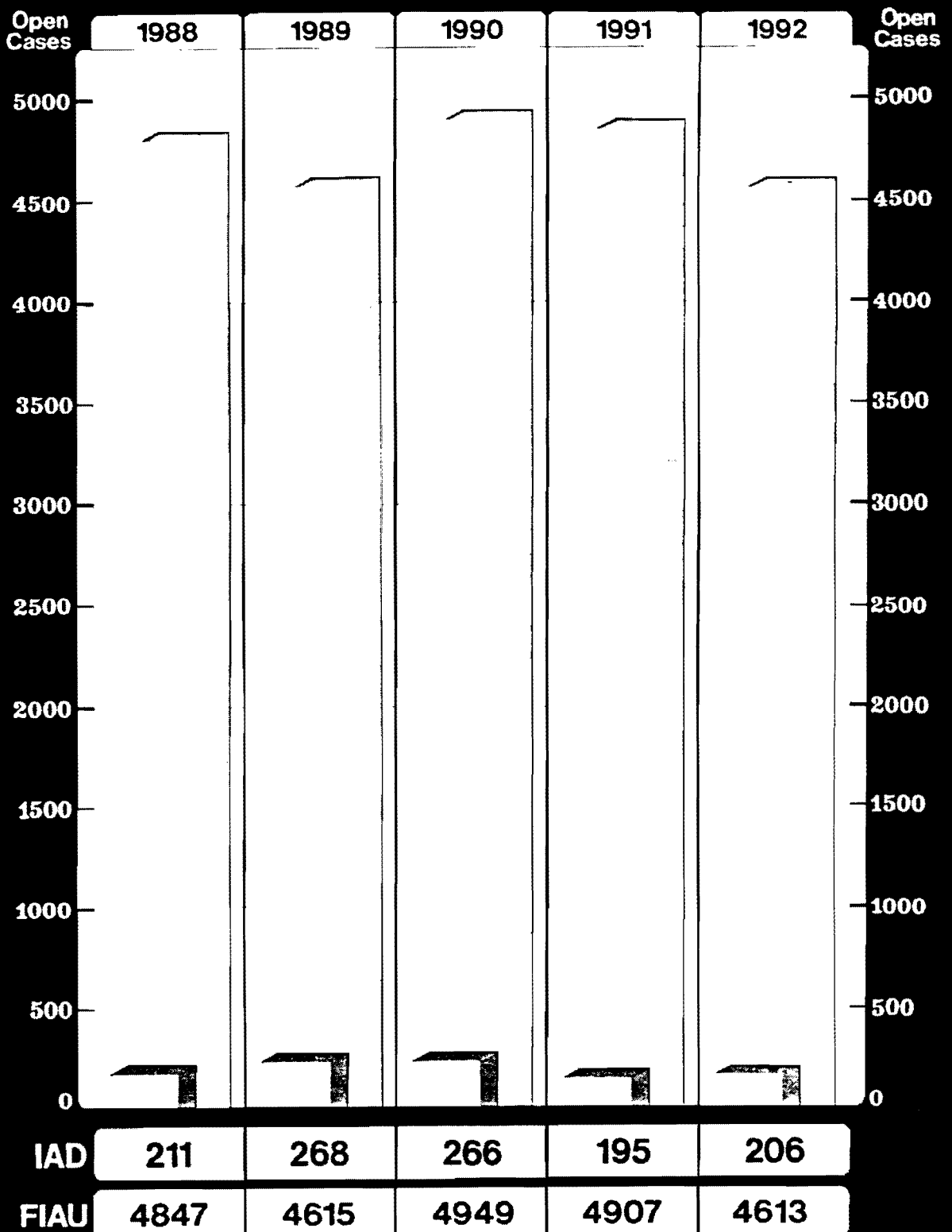
EXONERATED/  
UNFOUNDED 8%

FOR INFORMATION  
ONLY 1%

SOURCE: Data supplied by N.Y.P.D. and compiled by Mollen Commission

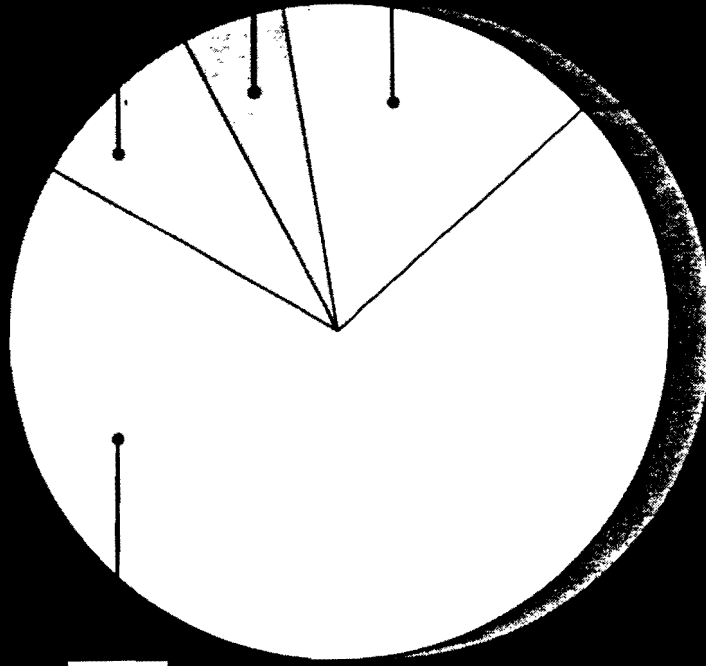


# IAD AND FIAU TOTAL OPEN CORRUPTION CASES/BACKLOG



FIAU open cases include open self-initiated cases.

**FIAU CASE DISPOSITIONS • 4 YEAR AVERAGE 1988 - 1991**



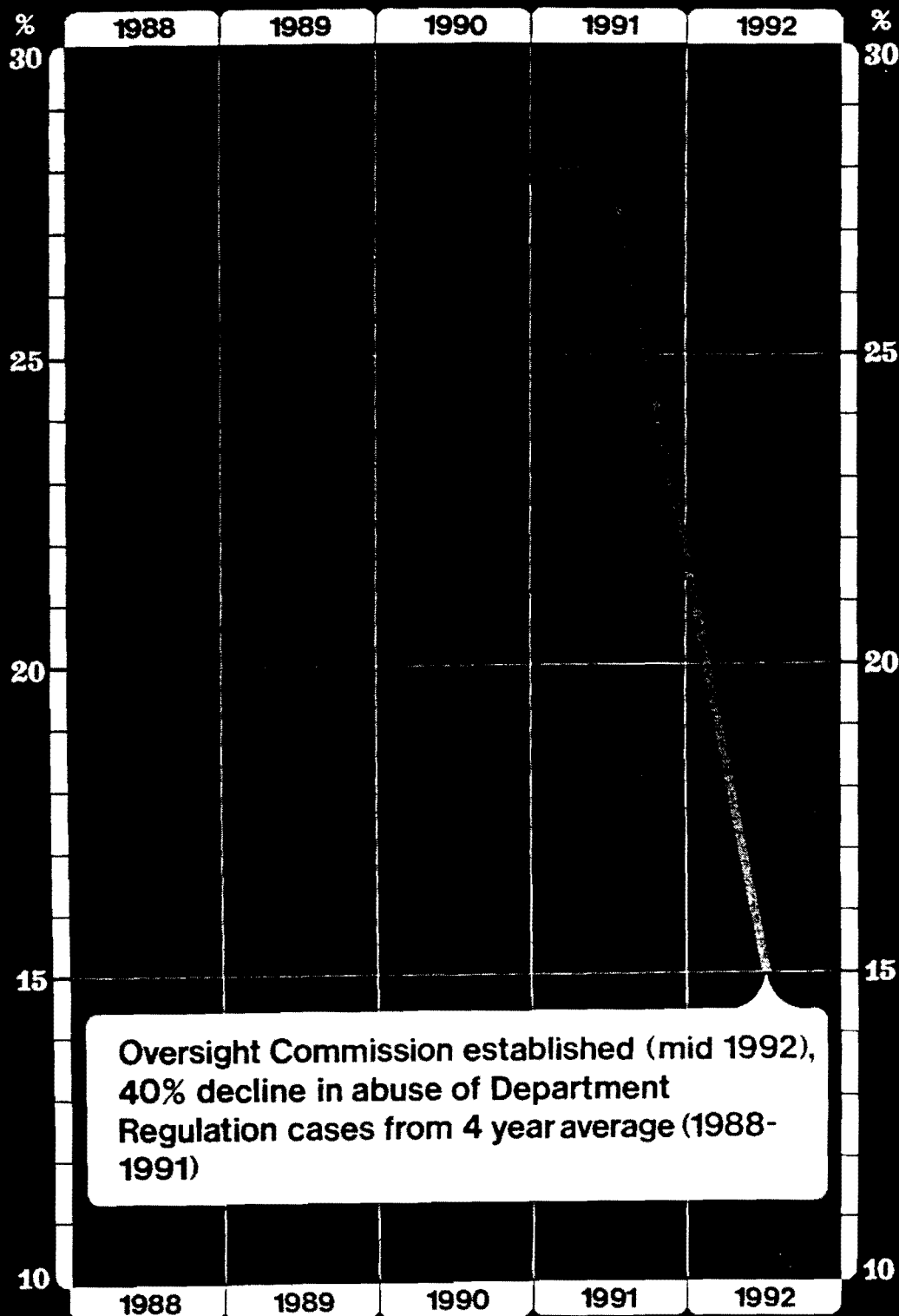
UNSUBSTANTIATED  
(NO RESULT) 70%

SUBSTANTIATED 9%

PARTIALLY  
SUBSTANTIATED 5%

EXONERATED/  
UNFOUNDED 16%

# **% OF "ABUSE OF DEPARTMENT REGULATIONS" CASES RETAINED BY IAD**



**Oversight Commission established (mid 1992),  
40% decline in abuse of Department  
Regulation cases from 4 year average (1988-  
1991)**

SOURCE: Data supplied by N.Y.P.D. and compiled by Mollen Commission

# POLICE CORRUPTION & FORCE ALLEGATIONS

	75 PCT		73 PRECINCT					46 PCT	
	'86	'87	'88	'89	'90	'91	'92	'89	'90
<b>ARREST EFFECTED</b>	3	2	6	3	4	1	-0-	4	2
<b>NARCOTICS</b>	29	39	8	11	8	7	11	14	8
<b>STOLEN PROPERTY</b>	7	10	7	6	2	9	4	5	6
<b>GAMBLING</b>	5	-0-	-0-	1	-0-	-0-	-0-	-0-	-0-
<b>VICE</b>	-0-	-0-	-0-	-0-	-0-	1	-0-	-0-	-0-
<b>CONSTRUCTION</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>SLA</b>	3	1	-0-	1	-0-	-0-	1	-0-	-0-
<b>PEDDLING</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	1	-0-
<b>GRATUITIES</b>	1	2	1	-0-	-0-	2	-0-	2	-0-
<b>SABBATH</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>TRAFFIC</b>	7	8	5	2	1	3	2	5	1
<b>TOWING (PES)</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOW/BODY</b>	1	1	-0-	1	-0-	-0-	-0-	-0-	-0-
<b>CRIME</b>	7	20	3	5	6	3	3	8	12
<b>SERIOUS MISCONDUCT</b>	7	8	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>ABUSE OF DEPT. REGULATIONS</b>	-0-	-0-	4	3	4	3	1	2	3
<b>MISCELLANEOUS</b>	1	-0-	-0-	-0-	-0-	1	-0-	-0-	-0-
<b>TOTAL COMPLAINTS</b>	71	91	34	33	25	30	22	41	32
<b>ALLEGATIONS OF EXCESSIVE FORCE FILED WITH NYPD/CCRB</b>	48	41	47	34	30	28	25	52	50

SOURCE Data supplied by NYPD and CCRB CCIB

# **EXHIBIT FIVE**



THE CITY OF NEW YORK

# COMMISSION TO INVESTIGATE ALLEGED POLICE CORRUPTION

17 BATTERY PLACE, NEW YORK, NY 10004 • (212) 487-7350 • FAX 487-7361

MILTON MOLLEN  
CHAIR

JOSEPH P. ARMAC  
CHIEF COUNSEL

HAROLD BAER, JR.  
HERBERT EVANS  
RODERICK C. LANKLER  
HAROLD TYLER

December 27, 1993

Honorable David N. Dinkins  
Mayor  
City Hall  
New York, New York

Dear Mr. Mayor:

I am herewith submitting the Interim Report and Recommendations of the Commission To Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department which you created by Executive Order No. 42 on July 24, 1992. This Interim Report reflects the preliminary findings and recommendations of the Commission.

I take this opportunity to thank you, on behalf of my colleagues, my staff, and myself for the opportunity to serve you and our City in a matter of such great importance as the integrity of our Police Department. We appreciate your constant support and the total independence you provided us throughout the course of our investigation.

I am also pleased to note that, in accordance with your suggestion, we have had fruitful discussions with Mayor-elect Rudolph W. Giuliani, and we anticipate that positive and permanent remedial measures will be undertaken by the Mayor-elect to deal effectively with this serious problem.

Again, I convey our thanks and appreciation and our best wishes for your success and happiness in your future endeavors.

Sincerely,

A handwritten signature in cursive script that reads "Milton Mollen".

Milton Mollen

## **EXHIBIT SIX**

**Commission To Investigate Allegations Of Police Corruption  
And The Anti-Corruption Procedures  
Of The New York City Police Department**

**Interim Report  
And Principal Recommendations**

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**December 27, 1993**



# INTERIM REPORT AND RECOMMENDATIONS

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## INTERIM REPORT AND PRINCIPAL RECOMMENDATIONS

### *Preface*

For the past century, police corruption inquiries into the New York City Police Department have run in twenty-year cycles of scandal, reform, backslide, and fresh scandal. The creation of this Commission followed the same historical pattern.

In May 1992, six New York City police officers assigned to two different Brooklyn precincts were arrested not by the New York City Police Department's Internal Affairs Division ("IAD"), but by Suffolk County Police. The officers were charged with narcotics crimes that arose from their association with a drug ring in Suffolk County.

Shortly thereafter, the press disclosed that one of the arrested officers, Michael Dowd, had been the subject of fifteen corruption allegations received by the New York City Police Department over a period spanning six years -- and that not a single allegation ever had been proven by the Department, despite substantial evidence that Dowd regularly and openly engaged in serious criminal conduct. Questions arose as to whether Dowd was an aberration or whether corruption had once again become a serious problem within the Department, and whether the Department was able and willing to police itself.

In July 1992, Mayor David N. Dinkins responded by establishing this Commission and assigning it three tasks of deep public concern: to investigate the nature and extent of corruption in the Department; to evaluate the Department's procedures for preventing and detecting corruption; and to recommend changes and improvements in those procedures.

In September 1992, with a twenty-person staff of attorneys and investigators, the Commission began its work. We embarked upon a wide-ranging investigation to determine whether the corruption of Michael Dowd and the Department's failure to apprehend him illustrated deeper problems about police corruption and culture, and about the Department's competence and commitment to control corruption.

To carry out our mandate, the Commission sought information from a wide variety of sources. We reviewed thousands of Department documents and case files; conducted hundreds of private hearings and interviews of former and current police officers of all ranks; audited, investigated, and conducted performance tests of the principal components of the Department's anti-corruption systems; analyzed hundreds of investigative and personnel files; interviewed private citizens, alleged victims of corruption, and criminal informants; conducted an extensive literature review on police corruption and prevention; and held a series of roundtable discussions and other meetings with a variety of police

management and corruption experts including local, state and federal law enforcement officials, prosecutors, former and current police chiefs and commissioners, inspectors general, academics, and police union officials.

The Commission also initiated a number of its own field investigations, sometimes in conjunction with local and federal prosecutors, targeting areas where our analysis suggested police corruption existed.

The Commission received invaluable assistance from numerous police officers and supervisors who agreed to act as confidential sources of information about the state of the Department's corruption controls and investigations, including IAD investigators and supervisors, and undercover and field associate officers. Nine corrupt officers, including Michael Dowd, provided the Commission with detailed information about their own and other officers' corrupt activities. A number of honest officers also provided information about corruption in their commands.

Throughout our work, we benefitted from the counsel of many people, including Mark H. Moore and David M. Kennedy of Harvard University's John F. Kennedy School of Government, and Special Counsel Jonny J. Frank.

During the course of its investigation, the Commission developed extensive evidence about the state of police corruption in our City, the state of the Department's corruption-controls, and the Department's ability and willingness to control corruption. From September 27 through October 7, 1993, the Commission held two weeks of public hearings to present much of the information we had uncovered in the primary areas of our mandate.

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From the beginning of our investigation, we were struck by the difference between what the Commission was uncovering about the state of corruption and corruption controls within the Department, and what the Department was publicly -- and privately -- stating about itself. The Department maintained that police corruption was not a serious problem, and consisted primarily of sporadic, isolated incidents. It also insisted that the shortcomings that had been disclosed about the Department's anti-corruption efforts reflected, at worst, insufficient resources and uncoordinated organization of internal investigations.

The Commission found that the corruption problems facing the Department are far more serious than top commanders in the Department would admit. We determined that police corruption and brutality are serious problems, and that narcotics-related corruption occurs, in varying degrees, in many high-crime, narcotics-ridden precincts in our City. We also found an anti-corruption apparatus that was totally ineffective and--worse--a

Department that was unable and unwilling to acknowledge and uncover the scope of police corruption. As a result, the Department's anti-corruption efforts were more committed to avoiding disclosure of corruption than to preventing, detecting and uprooting it.

This institutional reluctance to acknowledge and uncover corruption is not surprising. Few organizations act otherwise. Police organizations in particular find it difficult to maintain an effective fight against corruption. It is unrealistic to expect the Department to exert a serious, effective, and sustained anti-corruption effort without outside help and oversight.

The very history of the Department lends weight to this conclusion. Despite cycles of scandal and reform spanning over a century, none has led to effective long-term remedies. The Commission is neither so naive nor optimistic to suggest that any reforms could ever entirely eliminate police corruption--or corruption in any profession. But we are convinced that there are reforms that can permanently strengthen the Department's corruption controls, and that can help break the twenty-year cycles of scandal and reform to which the Department has been captive.

One such critical reform, which is the principal recommendation addressed in this report, is the creation of a permanent outside agency to monitor and improve the Department's capacity for preventing and pursuing corruption, and to ensure the Mayor, Police Commissioner, and the public that the Department's anti-corruption efforts do not again erode with time. Enhancing the Department's internal efforts to prevent and uncover corruption, of course, is also critical, and we will make recommendations as to how this can be done in our final report.

What follows is an interim report summarizing the Commission's findings and recommendations for external oversight. The Commission's basic findings have become sufficiently clear, its principal recommendations sufficiently well developed, and the situation in the Department and the City sufficiently serious that the Commission feels called upon to issue an interim report at this time. Detailed findings and recommendations, including evidence generated by the Commission's pending investigations, will be presented in our final report, which will be released in the coming months.

## I.

### THE STATE OF POLICE CORRUPTION

#### The Nature and Extent of Police Corruption: An Overview

The corruption of Michael Dowd was not isolated or aberrational, but represents a new and serious form of corruption that exists in a number of precincts throughout our City. While the systemic and institutionalized bribery schemes that plagued the Department a generation ago no longer exist, the prevalent forms of police corruption today exhibit an even more invidious and violent character: police officers assisting and profiting from drug traffickers, committing larceny, burglary, and robbery, conducting warrantless searches and seizures, committing perjury and falsifying statements, and brutally assaulting citizens.<sup>1</sup> This corruption is characterized by abuse and extortion, rather than by accommodation--principally through bribery--typical of traditional police corruption.

Simply put, twenty years ago police officers took bribes to accommodate criminals--primarily bookmakers; today's corrupt cop often is the criminal. Because of its aggressive and extortionate character, this form of corruption is particularly destructive to relations between the police and the public--which is especially troubling as the Department expands the practice of community policing.

The vast majority of police officers throughout our City do not engage in corruption. They are honest, hard-working men and women who perform difficult and dangerous duties each day with efficiency and integrity, doing their best to protect the people of our City. The horror many officers expressed at the revelations of the Commission's hearings was heartfelt and sincere.

Nonetheless, the Commission determined that corruption, particularly narcotics-related corruption, exists in varying degrees in many high-crime, drug-infested precincts in the City. This is based on the consistent and repeated results of the Commission's investigations; on information from sources within and without the Department; and on our

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<sup>1</sup>Corruption today is not limited to these types of crimes, as our final report will make clear. Some officers continue to accept and solicit gratuities from business owners, tow-truck operators and the like. These corrupt practices should not be ignored. As officers repeatedly told us, serious corruption often begins with more minor misconduct and corruption. This interim report, however, focuses only on the more serious forms of corruption we uncovered.

analysis of patterns of corruption complaints. This corruption is not limited to the isolated acts of a few rogue cops, as some have maintained. It is typically committed by groups of police officers assigned to the same command who commit crimes under color of law; through the abuse, and with the protection of their police powers; and often in the shelter of their fellow officers' silence.

Nor is corruption limited to spontaneous crimes of opportunity, as many believe. Corrupt officers create their own opportunities for corruption. They aggressively seek out sources of money, drugs and guns, and often employ sophisticated and organized methods to carry out their criminal activities.

The Commission also found that the most serious and abusive corruption is endemic to crime-ridden, narcotics-infested precincts with predominantly minority populations. These communities are thus doubly victimized: by active trafficking in drugs and guns by the police themselves; and by being denied the police protection and service they so badly need.

Victims of police corruption are often reluctant to complain to the Department, which makes it difficult to uncover, investigate and determine the extent of corruption. This difficulty is augmented by other factors which make police corruption particularly difficult to uncover and investigate, including corruption's often covert and sophisticated nature, and the close ties of loyalty among the officers who perpetrate or witness it.

The Commission found no evidence that this corruption reached high into the Department, or that supervisors were actively and directly involved. Some supervisors do, however, appear to condone perjury, falsification of police records, and acts of brutality. They also facilitate corruption by often closing their eyes to corruption in their commands. Some supervisors knew or should have known about corruption and failed to take the actions necessary to stop it. But even supervisors committed to fighting corruption could not always do so. The Department failed to give supervisors the tools or incentives required to fight corruption effectively, and supervision was notably sparse and ineffective in most precincts where corruption flourished.

Finally, the traditional idea that police corruption is primarily about illicit profit no longer fully reflects what the Commission found on the streets of New York. While greed is still the primary cause of corruption, a complex array of other motivations also spurs corrupt officers: to exercise power; to experience thrills; to vent frustration and hostility; to administer street justice; and to win acceptance from fellow officers. Officers stole guns and drugs not only for profit, but in some instances to show their power, express their frustrations and impose their brand of justice. Officers sometimes used force for legitimate self-defense reasons, but also to steal money or drugs, to teach a lesson that officers believed the courts would not provide, or simply for power and thrills.

What follows is a summary of police attitudes that foster and conceal corruption, and some of the most salient forms of corruption observed by the Commission.

### **Police Culture**

The values and attitudes of police officers enormously influence the presence or absence of corruption and the ability to combat it. Certain tendencies promote corruption, or a tolerance for it. An intense group loyalty, fostered by pride, shared experiences, and a pervasive belief that police can rely only on other police in times of emergency, binds officers together. While loyalty and mutual trust are necessary and honorable aspects of police work, they can generate what is perhaps the greatest barrier to effective corruption control: the code of silence, the unwritten rule that an officer never gives incriminating information against a fellow officer.

The code of silence influences a vast number of police officers, even those who are otherwise honest. Officers who violate the code of silence often face severe consequences. They are ostracized and harassed; become targets of complaints and even physical threats; and fear that they will be left on their own when they most need help on the street. Consequently, many honest officers take no action to stop the wrongdoing they know or suspect is taking place around them. The code of silence also often extends to supervisors, who seek to protect their subordinates from charges of misconduct and their own careers from the taint of scandal.

Another aspect of police culture is the "us versus them" mentality that many police display, and which is at its worst, in high-crime, predominantly minority precincts. This divisiveness makes many police officers feel isolated from, and often hostile toward, the community they are meant to serve. The Commission's inquiries show that this attitude starts as early as the police academy, where impressionable recruits learn from veteran police officers that the ordinary citizen fails to appreciate the police, and that their safety depends solely on fellow officers. This attitude is powerfully reinforced on the job. It creates strong pressures on police officers to ally themselves with fellow officers, even corrupt ones, and to disregard the interest they have in supportive, productive relationships with the communities and residents they serve.

Police unions and fraternal organizations can do much to change the attitudes of their members. Because of this, we were particularly disappointed when the Patrolmen's Benevolent Association ("P.B.A.") declined our invitation to discuss this matter. Moreover, a variety of sources, including police officers and prosecutors, have reported that police unions help perpetuate the characteristics of police culture that foster corruption. In particular, the Commission learned that delegates of the P.B.A. have attempted to thwart law enforcement efforts into police corruption. Rather than acting



to protect the legitimate interests of the vast majority of its honest members, the P.B.A. often acts as a shelter for officers who commit acts of misconduct.

The code of silence and the "us versus them" mentality were present wherever we found corruption. These characteristics of police culture largely explain how groups of corrupt officers, sometimes comprising almost an entire squad, can openly engage in corruption for long periods of time with impunity. Any successful system for corruption control must redirect police culture against protecting and perpetuating police corruption. It must create a culture that demands integrity and works to ensure it. The Commission believes such change is possible.

History proves that our optimism is warranted. In response to the Knapp Commission's revelations of systemic corruption and corruption tolerance, then-Commissioner Patrick V. Murphy made significant strides in transforming a culture that committed and tolerated corruption, into one that largely discouraged it. Then, as now, the Department could be divided into three camps: a few determined offenders, a few determined incorruptibles, and a large group in the middle who could be tilted either way, and who are, at the moment, tilted toward corruption tolerance. As it did twenty years ago, the Department must take a variety of steps to reverse this inclination by: emphasizing and spreading the system of "command accountability" and incentives for preventing corruption; strengthening the corruption prevention and investigations apparatus; and inculcating an ideology of pride and integrity throughout the Department.

Any successful plan for reform has to rely heavily on steps to create a culture that discourages corruption. If the culture of the Department tolerates corruption, or conceals it, no systems of prevention and investigation are likely fully to succeed. But if the culture demands integrity and works to ensure it, those systems will be more productive.

### **Forms of Corruption**

#### ***Narcotics-Related Corruption:***

The most serious corruption problems within the Department arise from the narcotics trade. The traditional unwritten rule of twenty years ago that narcotics graft is "dirty money" has disappeared. The explosion of the cocaine and crack trade that began in the 1980s provides police officers with plentiful opportunities to steal money, drugs, and other property from drug dealers who are unlikely to complain, and to associate with drug dealers who will pay handsomely for police protection.

Unlike a generation ago, when narcotics corruption was confined to units of plainclothes narcotics officers, today's narcotics corruption primarily involves the uniformed patrol force. Nonetheless, even the most elite units of the Department are not immune to

narcotics corruption. For example, two detectives assigned to the New York Drug Enforcement Task Force recently pleaded guilty and were convicted of drug trafficking charges in connection with their attempt to sell narcotics lawfully seized in a large-scale narcotics investigation.

Police officers profit from the narcotics trade in a variety of ways, from petty thefts and shakedowns of street dealers to using their police powers to protect and assist large-scale drug organizations in return for sizeable payoffs. The primary forms of narcotics-related corruption we discovered -- which officers often carried out while on duty and in uniform -- include the following:

- Providing assistance and protection to narcotics organizations for payoffs, including selling confidential information, providing protection for transportation of drugs and drug money, harassing competitive dealers, and becoming active entrepreneurs in drug rackets;
- Thefts, sometimes violent, of drugs, money, and firearms from drug dealers;
- Thefts of drugs, money and property seized as evidence;
- Robberies of drug dealers;
- Burglaries of drug locations;
- Selling narcotics, which officers often obtained through theft or as payment from dealers, including sales to other officers, or dealers from whom the drugs were stolen; and
- Selling illegally seized weapons--including sales of guns to drug dealers.

Narcotics corruption rarely involves a single police officer taking advantage of an isolated opportunity to "score" money, drugs, or both. Rather, it usually involves groups of police officers, acting with various degrees of organization, actively seeking opportunities to score from drug dealers through protection rackets, larceny, extortion, burglary, or robbery.

One Commission investigation, for example, revealed a group of ten to twelve patrol officers assigned to a Brooklyn precinct who, for at least two years, regularly broke into drug locations to steal money, drugs, and firearms. They communicated with each other by using code names over Department radios to arrange clandestine meetings and to plan their illegal raids. Once they had selected a location, they assigned each other roles to perform

in the raid and later split stolen cash either in or around the stationhouse or at secret off-duty locations. Similar patterns exist in other precincts as well.

Narcotics corruption among police officers does not end with efforts to score from the drug trade. Personal drug use, especially the use of cocaine and steroids, has also become a significant problem among police officers, even those who may not otherwise engage in other kinds of wrongdoing. While the Commission continues to inquire into the extent of this problem, information from corrupt officers, honest officers, and Department health services officials indicates that the problem has grown over recent years, spurring the Department to significantly increase the frequency of random drug tests in 1993.

### ***Police Violence:***

Police corruption investigations typically ignore police violence. This Commission rejected that traditional course because we found that police violence is a serious problem confronting the Department, and may indicate an officer's willingness to engage in corruption. The traditional distinction between corruption and brutality, therefore, no longer applies. Thus any investigation of corruption would be remiss in overlooking brutality.

A number of officers have told us that they were "broken in" to the world of corruption by committing acts of brutality; it was their first step toward other kinds of corruption. A willingness to abuse people in custody or others who challenge police authority can be a way to prove that an officer is a tough cop who can be trusted and accepted by fellow officers. Brutality, like other kinds of misconduct, thus sometimes serves as a rite of initiation into aspects of police culture that foster corruption.

No one would deny that the use of force is often a necessity -- and indeed often crucial to protect an officer's life in the line of duty. We found, however, that the use of force sometimes exceeds the bounds of necessity. Some police officers use violence gratuitously: to demonstrate their preeminence on the streets; to administer on-the-spot retribution for crimes they believe will go unpunished by the courts; and for power and thrills. We also found that such behavior is widely tolerated in the Department.

The Civilian Complaint Review Board is responsible for investigating excessive force allegations. However, the Department has failed to carry out its duty to aggressively prevent and uncover acts of brutality, to hold supervisors accountable for failing to pursue signs of unnecessary violence on their watch, and to solicit information about brutality from other officers or the public.

### ***Perjury, False Statements and Records:***

Falsifying Department records and making false statements is not uncommon among certain police officers, even among those who do not engage in other kinds of misconduct. Most often, police falsifications are made to justify an unlawful arrest or search that would otherwise not survive in court, especially in cases of drug or firearms possession; to conceal other corrupt activities; or to excuse the use of excessive force.

Police officers also falsify records to inflate arrest numbers, to enhance arrest charges, to allow seizure of otherwise unseizable evidence, to increase overtime, and to defend their own conduct and the conduct of fellow officers in corruption and excessive force investigations. Superior officers often do little to deter these practices. Indeed, in at least one case, a superior officer went so far as to direct subordinates to falsify official reports for self-serving or, for what were believed to be, legitimate law enforcement purposes.

The consequence of perjury and falsification can be devastating. It can mean that defendants are unlawfully arrested and convicted, that inadmissible evidence is admitted at trial, and ultimately the public trust in even the most honest officer is eroded. This erosion of trust causes the public to disbelieve police testimony resulting in the guilty being set free after trial.

## **II.**

### **THE FAILURES OF THE DEPARTMENT'S CORRUPTION CONTROLS**

The Commission found a deep-rooted institutional reluctance to uncover corruption in the Department. This was not surprising. Powerful forces discourage the Department from sustaining efforts to uncover corruption -- which is why an external force is needed to maintain a sense of commitment and accountability.

Police managers ask a great deal of their officers. They ask them to be alert, ready, and available to respond to whatever citizens demand from them; to be courteous and fair no matter how offensive or provocative the behavior of the citizens they encounter; and to be ever willing to face danger to protect the people of our City. Because they must ask for so much from their officers, they rightly judge that they should offer trust, support and loyalty in exchange.

Unfortunately, one of the easiest ways that the Department can show trust and support for its officers is to be less than zealous in efforts to control and uncover corruption.

Pursuing corruption -- taking the complaints of citizens (even drug dealers) seriously, using tough investigative methods to determine the truth of allegations, and using pro-active measures to search out corruption -- will be perceived by some as a lack of trust and thus lower morale.

The top management of the Department also understands that revelations of corruption will be dealt with harshly in the court of public opinion. When corruption is uncovered, the press and the public invariably take it as a symptom of a larger problem and a failure of management. Thus, police commanders perceive that their careers may be harmed, and that public confidence will erode, thus jeopardizing the Department's effectiveness in fighting crime.

As a result, top management believed that it would get no reward, and pay a heavy price, for vigilance against corruption. It is no wonder that over time the Department tends to relax its vigilance, and may even throw up roadblocks to uncovering corruption.

Without constant management attention to preventing corruption, however, corrupt officers feel they can act with impunity, honest officers are more vulnerable to the code of silence, and leadership is more easily drawn to other priorities.

This appears to have happened in the Department. From the top brass down to local precinct commanders and supervisors, there was a pervasive belief that uncovering serious corruption would harm careers and the reputation of the Department. There was a debilitating fear of the embarrassment and loss of public confidence that corruption headlines would bring.

As a result, avoiding scandal became more important than fighting corruption. Daniel Sullivan, the six-year chief of the Department's anti-corruption division, testified at the Commission's public hearings that:

...the Department [was] paranoid over bad press. Everything that IAD did reflected poorly on the rest of the Department and generated bad press. So when I went up with the bad news that two cops were going to be arrested...I felt like they wanted to shoot me because I was always the bearer of the bad news. They were interested primarily in getting good press...there was a message that went out to the field that maybe we shouldn't be so aggressive in fighting corruption because the Department just does not want bad press.

Numerous officers expressed similar fears of exposing serious corruption.

The reluctance to uncover and effectively investigate corruption infected the entire anti-corruption apparatus, from training, supervision and command accountability to investigations and intelligence gathering. Our investigation revealed an anti-corruption system that was more likely to conceal corruption than uncover it, and a Department often more interested in the appearance of integrity than its reality. Oversight of anti-corruption efforts was virtually non-existent; intelligence gathering efforts were negligible; corruption investigations were often deliberately limited and prematurely closed; and Integrity Control Officers and supervisors were denied the tools needed to uncover corruption and, in practice, played virtually no role in corruption control efforts.

And perhaps most alarming, in a Department known for its high levels of performance, investigative ingenuity, and managerial expertise, no one seemed to care. Despite the importance of its corruption-fighting mandate, the Department allocated little of its billion-dollar-plus budget to anti-corruption efforts. Moreover, although performance in most divisions in the Department is carefully scrutinized at several levels, neither IAD nor other units or supervisors responsible for fighting corruption were held accountable for their performance.

Nor did anyone in the Department know how the Department's anti-corruption efforts had been functioning until this Commission commenced its audit and investigation of the principal components of those anti-corruption efforts. What was known was that the Department's anti-corruption systems were not working well. But that was acceptable, if not preferable: ineffectiveness minimized the likelihood of embarrassment, scandal and a perceived loss of public confidence. Totally overlooked was the public's loss of confidence in the integrity of the Department and the debilitating impact upon the Department's moral fiber.

This is precisely why the past failures of the Department's anti-corruption efforts are so important -- and illuminating. They show the inevitable consequence of leaving anti-corruption efforts and oversight solely within the control of the very Department that believes it will be embarrassed and harmed by the success of those efforts.

A brief summary of our preliminary findings on these failures follows.

**The Department Abandoned Its Responsibility To Ensure Integrity:** The Department failed to impress upon its members that fighting corruption must be one of the Department's highest priorities. The Department devoted insufficient resources, personnel, effort, and planning to preventing and uncovering corruption. Officers of all ranks told us that the general feeling in the Department was that it was better not to know about, much less report, corruption. A "see no evil, hear no evil" mentality often governed supervisors, patrol officers, and even corruption investigators.

**The Department Failed to Address Aspects of Police Culture That Foster Corruption:** Despite overwhelming evidence of a widespread tolerance of corruption and violence, the Department failed to address police attitudes and practices that foster corruption, and to inculcate attitudes that discourage it. Officers and supervisors were neither encouraged nor rewarded for taking stands against corruption; nor were penalties imposed for being silent or willfully blind to corruption; and officers and supervisors were rarely held accountable for corruption about which they were, or should have been, aware.

**The Department Had a Fragmented Approach To Corruption Control:** Combatting police corruption requires a coherent, integrated strategy, and coordinated effort and attention on several fronts. These would include, at a minimum, intelligent recruitment; thorough training; effective supervision; strong accountability; thorough investigations; effective intelligence gathering and analysis; meaningful discipline; and vigilant oversight. The Department had no such integrated strategy, and the various parts of what should have been a coordinated system were either non-existent or unproductive.

**The System of "Command Accountability" Collapsed:** A prime component of the Department's capacity to prevent and uncover corruption is the principle of command accountability: that all commanders are responsible for pursuing corruption in their commands; that they will be evaluated firmly but fairly on their anti-corruption performance; and will be furnished with the tools and resources necessary to do so. In the past, field commanders had Field Internal Affairs Units ("FIAUs") to investigate corruption in their commands. The FIAUs were accountable both to the field commander and to IAD.

Only the skeleton of this system now remains. Its animating principle -- that all commanders must act, and will be held accountable for acting, against corruption -- has disappeared. There is a widespread perception among commanders and supervisors that uncovering corruption on their watch leads to punishment rather than reward.

We found a total lack of commitment to the principle of command accountability. This was allowed to happen because no formal institutional mechanisms were ever adopted to ensure its perpetuation and enforcement. Its success depended on the commitment of the Department's top commanders. When that commitment eroded, so too did the centerpiece of the Department's anti-corruption systems.

**The Department Allowed the FIAUs to Collapse:** Although the FIAUs were purportedly the backbone of the Department's investigative efforts, they were denied the resources and personnel required to do their job. Moreover, although the FIAUs depended largely on IAD's assistance and oversight, IAD rarely assisted or even cooperated with the FIAUs. In

fact, IAD often thwarted FIAU investigations by withholding critical information and resources.

Even worse, the Department permitted IAD to use the FIAUs as a dumping ground for corruption allegations. IAD assigned the poorly resourced FIAUs a caseload that FIAU officers of all ranks testified was so overwhelming it was impossible to handle. As a result, a large number of corruption cases filed with the Department each year -- including over a dozen investigations involving Michael Dowd -- were closed as unsubstantiated without appropriate investigative steps ever having been taken.

**The Internal Affairs Division Abandoned Its Mission:** IAD abandoned its primary responsibilities to investigate serious and complex corruption cases; to uncover patterns of corruption through trend analysis and self-initiated investigations; and to oversee and assist the FIAUs. For example, IAD assigned itself a caseload of largely easy cases, including cases like sleeping on the job; failed to solicit significant information through its undercover program; initiated no self-generated investigations during at least the past five years, despite an entire unit purportedly dedicated to that task; and relied on a large number of investigators with no prior investigative experience, many of whom never took the required investigations training course. Consequently, as the Commission uniformly heard from officers of a variety of ranks, IAD was viewed with contempt by members of the Department, and failed to serve as a deterrent to corruption.

**The Department Used A Badly Flawed Investigative Approach For Police Corruption:** Investigations into police corruption purposefully minimized the likelihood of uncovering the full extent of corruption. Interestingly, the Department's investigations excelled in every area except police corruption. The Commission uncovered a pattern of cases that were prematurely closed and failed to employ basic investigative techniques (like the use of undercovers, sting operations, and turn-arounds) that are routinely relied on in other investigative divisions of the Department. Moreover, IAD operated as a solely reactive investigative division that responded only to isolated complaints rather than patterns of corruption. IAD also fragmented what should have been large-scale investigations by sending out related allegations as separate investigations. Thus, IAD knowingly ignored opportunities to develop investigations of large-scale corruption.

**Corruption Cases Were Concealed:** IAD and the Inspectional Services Bureau Chief had unbridled discretion to control police corruption investigations and decide what allegations should be officially recorded and sent to prosecutors. We found evidence of abuse of that power. For example, certain corruption cases were kept out of IAD's regular filing system and concealed from prosecutors through a file called the "Tickler File."



**The Department's Intelligence Gathering Efforts Were Flawed:** The Department made virtually no effort to solicit information from the public, police officers, or other sources of information -- even though such efforts are crucial to uncovering information about police corruption. The Department made little effort to generate information about corruption in the absence of a complaint. It rarely used directed integrity tests and often failed to pursue information from its own field associates, one of the Department's best resources for reliable information about corruption. The Department's complaint in-take efforts also minimized the likelihood of obtaining information on corruption: The Department's "Action Desk" -- which receives and processes information on police corruption -- routinely discouraged individuals from providing information. Department statistics, therefore, vastly underestimate the nature and extent of corruption, and investigations reach only small portions of a much wider problem.

**Supervision Was Diluted and Ineffective:** Although effective first-line supervision is critical in the fight against corruption, few first-line supervisors perceived corruption control as an important responsibility. The Department did little to suggest otherwise. Even supervisors bent on ensuring integrity often lacked the resources or time to do so. In many precincts, supervisors were responsible for so many officers or so large an area that effective supervision was impossible. Department commanders often assigned supervisors without regard to prior experience, training, or the needs of the command. Inexperienced, probationary sergeants were often assigned to busy, corruption-prone precincts where experienced, proven supervisors are most needed. Thus, in many busy, crime-ridden precincts corrupt officers felt they had free rein. While no amount of supervision will stop all determined offenders, a reasonable level of committed supervision is essential to deter corruption.

**Recruit and In-Service Integrity Training Was Neglected:** Integrity training has been long neglected by the Department. Insufficient attention was devoted to integrity training at the Police Academy, and "required" in-service integrity training for officers and supervisors was often not provided. When training was offered, it relied largely on obsolete materials and films that remained largely unchanged since the days of the Knapp Commission, and rarely captured serious attention either from recruits or veteran officers.

**Effective Deterrence Was Absent:** Effective general and specific deterrence was lacking. The likelihood of detection and punishment was minimal, as was the severity of the sanction imposed. Indeed, one method of dealing with corruption was simply to transfer problem officers to unattractive assignments including, crime-ridden precincts. This "dumping ground" method of discipline punishes the community more than the problem officers by assigning them to the very precincts where the opportunities for corruption most abound, where the need for talented, committed officers is the greatest, and where minority populations often reside.

**Drug and Alcohol Abuse Policies Were Ineffective:** Despite evidence of a serious drug and alcohol problem confronting the Department, little was done to prevent, treat, or uncover the full extent of this problem. Abuse problems are often ignored or mishandled, certain drug tests are given too infrequently, many testing procedures are easy to circumvent, and effective drug treatment is non-existent.

### III.

#### PRINCIPAL RECOMMENDATIONS

Most of the failures of the Department's corruption controls could have been prevented, identified, or remedied years ago if the Department had been accountable to regular independent review of its anti-corruption systems. History strongly suggests that the erosion of the Department's corruption control efforts is an inevitable consequence of its institutional reluctance to uncover corruption -- unless some countervailing power forces the Department to do what it naturally strays from doing. This is true of many organizations. It is unrealistic to expect otherwise from the Department. The mere establishment of this independent Commission created such a countervailing pressure, as did the creation of the Knapp Commission twenty years ago. After the creation of this Commission, Police Commissioner Raymond W. Kelly made a number of laudable reforms in the Department's anti-corruption apparatus. It is no coincidence that it was only under the scrutiny of oversight Commissions that there was a heightened vigilance and commitment to anti-corruption efforts in the Department. Our challenge is to sustain that vigilance so that history does not again repeat itself.

The Commission believes that the Department must remain responsible for effectively policing itself and for keeping its own house in order. This requires that the Department have effective internal corruption controls to prevent and uncover corruption. The Commission also believes that it is impossible for the Department to bear that responsibility alone. The Department is subject to powerful internal pressures to avoid uncovering corruption, which are almost certain to prevail absent external scrutiny.

The Commission therefore urges a dual-track approach to improving police corruption controls. The first track focuses on the Department's entire internal apparatus for the control of corruption. Police Commissioner Kelly has made important inroads to strengthening this internal apparatus, and he should be commended for his efforts. His principal reforms, however, focus largely on strengthening and centralizing investigative efforts, rather than on prevention, root causes, and conditions. The Commission's final report will make detailed recommendations for internal reforms on a variety of fronts, including:

- improving screening and recruitment;

- improving recruit education and in-service integrity training;
- attacking corruption and brutality tolerance;
- challenging other aspects of police culture and conditions that breed corruption and brutality;
- revitalizing and enforcing command accountability;
- strengthening first-line supervision;
- enhancing sanctions and disincentives for corruption and brutality;
- strengthening intelligence-gathering efforts;
- preventing, detecting and treating drug and alcohol abuse;
- soliciting police union support for anti-corruption efforts;
- minimizing the corruption hazards of community policing; and
- legislative reforms, including the issue of residency requirements.

The second track focuses on the creation of an independent, external monitor to ensure that the Department's commitment to preventing corruption is sustained and that its internal systems for pursuing corruption operate effectively. It is this external monitor that will be the focus of this interim report.

### *The External Monitor*

The Commission urges the immediate establishment of a permanent external monitor, independent of the Department, to assess the effectiveness of the Department's systems for detecting, preventing, and investigating corruption; to evaluate Department conditions and values that affect the incidence of police corruption; to conduct continual audits of the state of corruption within the Department; and, when appropriate, to make recommendations for improvement. The monitor will issue periodic reports on its findings and recommendations to the Mayor and the Police Commissioner.

This monitor will also serve as a management tool for the Police Commissioner. It will ensure that the Department's anti-corruption systems work effectively -- and that under his or her tenure, the Department will not fall victim to the institutional pressures that erode anti-corruption efforts.

### Monitoring Performance of Anti-Corruption Systems

The monitor will:

- ensure that the Department has effective methods for receiving and recording corruption allegations and analyzing corruption trends;
- assess the sufficiency and quality of investigative resources and personnel;
- ensure that the Department employs effective methods and management in conducting corruption investigations, including that it no longer solely relies on a reactive investigative system that narrowly focuses on isolated complaints and that rarely employs pro-active investigative techniques;
- ensure that the Department has successful intelligence-gathering efforts, including effective undercover, field associate, integrity testing, and community outreach programs;
- evaluate the Department's efforts to revitalize and enforce command accountability;
- ensure that the Department strengthens supervision, including levels and quality of first-line supervision, training of supervisors, and consideration of integrity history in determining assignments and promotions;
- require the Department to produce reports on police corruption and corruption trends including, analysis of the number of complaints investigated and the disposition of those complaints, the number of arrests and referrals for prosecution, and the number of Department disciplinary proceedings and the sanctions imposed; and
- conduct performance tests and inspections of the Department's anti-corruption units and programs to guarantee that the Department continually maximizes its capacity to police itself.

The monitor must also have its own investigative capacity to successfully carry out its audits of the Department's internal controls. It will conduct its own self-initiated corruption investigations, intelligence-gathering efforts, and integrity tests to the extent necessary to test the Department's performance. This capacity is not meant to replace the

Department's or prosecutors' own investigations or to serve an enforcement purpose, but to ensure that the Department's intelligence-gathering and investigative efforts are focused on areas where corruption is likely to exist.

This investigative capacity is crucial to successfully carrying out the monitor's principal task of auditing and evaluating the Department's anti-corruption efforts. It was only by having such an investigative capacity that this Commission was able to uncover many of the deficiencies in the Department's intelligence gathering, investigative and supervisory efforts, and to determine that the nature and extent of corruption was far more serious than suggested by the Department's official position on corruption.

### Monitoring Cultural Conditions

The monitor must also:

- ensure that the Department makes effective efforts to reform the conditions and attitudes that nurture and perpetuate corruption and brutality;
- assess the effectiveness of recruit education, integrity training, field training operation, and the integrity standards set by supervisors;
- ensure that the Department works to eliminate corruption and brutality tolerance and the code of silence;
- evaluate Department efforts to pursue and uncover brutality and its connection to corruption;
- determine whether the Department routinely assigns officers with discipline problems only to certain commands within the Department, such as high-crime, minority precincts, and to determine the impact of such practices;
- evaluate the effectiveness of the Department's drug and alcohol abuse policies, and prevention treatment, and detection efforts;
- evaluate the Department's efforts to overcome police attitudes that isolate them from the public and often create the appearance of a hostile and corrupt police force; and
- enhance liaison efforts with community groups and precinct community councils to provide the Department with input from the public about their perception and information about police corruption and to obtain information for the monitor's recommendations for reform.

## Recommendations

We recommend that the Mayor establish a permanent Police Commission headed by three to five highly reputable and knowledgeable citizens appointed by the Mayor who would be willing to serve *pro bono*. We further recommend that the Commissioners have a limited, staggered term to guarantee turnover, avoid staleness, and prevent the development of a long-term bureaucratic relationship with the Department that could compromise the Commission's independence.

To accomplish its tasks, the Commission's powers should include: the power to subpoena witnesses and documents, unrestricted access to Department records and personnel; the power to administer oaths and take testimony in private and public hearings; and the power to grant use immunity. We do not recommend the creation of a large and costly bureaucracy. With the aforementioned powers, the Commission could perform its work with a small staff of people with varied expertise, including attorneys, investigators, police management experts, and organizational and statistical analysts.

The Police Commission should cooperate with the Police Commissioner in establishing a total commitment to maintaining integrity and the corruption fighting capacity of the Department. It should monitor the implementation of a system of accountability throughout the Department enforced by a program of incentives and disincentives. The Police Commission should cooperate with the Police Commissioner in redefining police culture to reflect the identity of interest between the members of the public and the Department with emphasis on the infusion of mutual respect.

## Conclusion

It is the Commission's hope that this interim report will assist the Mayor, the Police Commissioner, and the people of New York City in addressing the problems of police corruption, and the reforms necessary to combat it effectively today and in the future.

**Commission To Investigate Allegations of Police Corruption  
And The Anti-Corruption Procedures of the Police Department**

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# **EXHIBIT SEVEN**

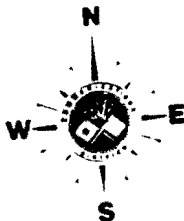


WESTCHESTER  
COUNTY

# FIVE BOROUGHES

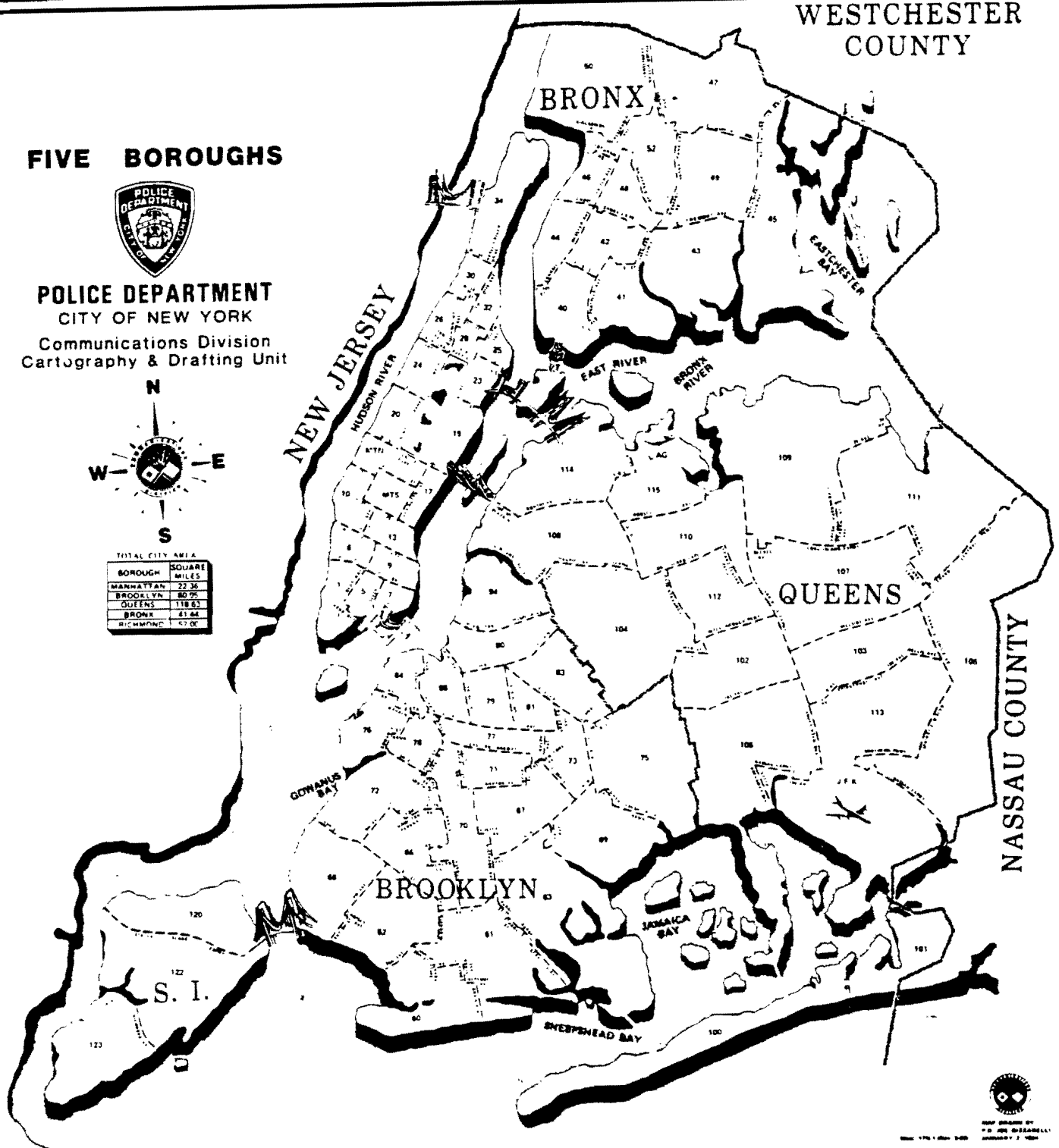


**POLICE DEPARTMENT**  
CITY OF NEW YORK  
Communications Division  
Cartography & Drafting Unit



TOTAL CITY AREA

BOROUGH	SQUARE MILES
MANHATTAN	22.36
BROOKLYN	80.95
QUEENS	118.63
BRONX	61.84
RICHMOND	67.00



MAP DESIGNED BY  
F. J. JOE & ASSOCIATES  
JANUARY 7, 1961

# **EXHIBIT EIGHT**

## EXHIBIT EIGHT

### **THE FAILURE TO APPREHEND MICHAEL DOWD: THE DOWD CASE REVISITED**

The question of how Michael Dowd and other police officers of the 75th Precinct could have perpetrated their corruption for so long with impunity provides a most glaring example of the recent failures of the Police Department's corruption controls. From 1986 through 1992, the Department's Internal Affairs Division ("IAD") received sixteen separate allegations implicating Michael Dowd and his associates. After six years of investigations, every case against Dowd was closed as unsubstantiated, despite the overwhelming evidence that Dowd often acted openly and notoriously and that large numbers of Dowd's fellow officers and supervisors were aware -- or at least strongly suspected -- that he was corrupt.

In November 1992, the Department provided its answer to the Dowd debacle. The Police Commissioner's Report into the conduct of the Dowd case blamed the Department's failure to apprehend Dowd on a flawed investigative organization that hindered communication and coordination between the Internal Affairs Division and the Brooklyn North Field Internal Affairs Unit ("FIAU").

This Commission came to a very different conclusion. In our view of the evidence, the Dowd case demonstrates a willful effort on the part of Internal Affairs commanders to impede an investigation that might have uncovered widespread corruption in the 75th Precinct. For reasons that cannot be attributed simply to a bad system of case management, in the course of the Dowd investigation, Internal Affairs fragmented corruption allegations, withheld critical information, denied access to crucial witnesses, and refused to provide essential resources to the FIAU. By doing so, Internal Affairs commanders doomed any hope of a successful investigation of Dowd and other corrupt officers of the 75th Precinct.

To understand how this could have happened, we must understand the attitude that afflicted IAD during the years following a notorious corruption scandal of the mid-1980s.

According to a number of police officers, police commanders, and ranking IAD officers who spoke to the Commission both on and off the record, the 77th Precinct scandal of 1986 -- and the Police Commissioner's response to it -- were the seedbed of the failures of the Department's corruption controls. These events sent a clear message that the Department's reputation could not afford to suffer another large-scale corruption scandal. Police commanders, who observed this scandal's consequences to the borough commander, Assistant Chief DeForrest Taylor and his subordinates, clearly understood that the disclosure

of corruption on their watch could harm their careers.<sup>1</sup> A number of IAD officers we interviewed told us that after the 77th Precinct case an unwritten policy developed at IAD to avoid large-scale corruption investigations and publicized arrests that would embarrass the Department and ruin careers. According to these witnesses, this policy started at the top of the Department's command structure, in fact, with the Police Commissioner himself.

At the Commission's public hearings, Daniel F. Sullivan, the Department's Chief of the Inspectional Services Bureau from 1986 to 1992 confirmed what we heard from his subordinates. He testified that after the 77th Precinct case, a climate of reluctance infected internal investigators and field commanders causing them to avoid aggressive pursuit of corruption allegations. He testified that the Department had become "paranoid" about the bad press that revelations of corruption inevitably bring. He testified that the biggest hindrance to investigating corruption was the Department's unwillingness to suffer the negative publicity corruption cases inevitably bring.

That message filtered down from Sullivan to the Department's corruption investigators. IAD and FIAU investigators told the Commission about corruption investigations thwarted by the unwritten rule that patterns of corruption allegations reflecting potentially large-scale corruption problems should be fragmented into individual allegations reflecting isolated incidents. Lieutenant Lawrence Hotaling, for example, spent seven years as an IAD investigator and supervisor. He was an IAD officer during the 77th Precinct investigation and served as a supervisor of IAD's Staff Supervisory Unit, the unit that monitored the investigations of Michael Dowd and other corruption investigations in Brooklyn North. In July 1992, Hotaling told former Commissioner Kelly about IAD's reluctance to pursue broadly based corruption investigations. In a recorded interview Hotaling told Kelly:

What I feel happened is that, whether it was valid or not, it was running through Internal Affairs that the Police Commissioner was not too thrilled with the newspaper articles and everything about the 77 [Precinct]. And this, basically, this [Dowd's] crew had a 75 [Precinct] connection and there was a good possibility it [the 75th precinct investigation] could have blown up as big, if not bigger than the 77. It appeared from my perspective that they [IAD's commanders] were just trying to fragment the investigations so that it wouldn't all look like it's one big situation.

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<sup>1</sup> In the wake of the 77th Precinct disclosures, Chief Taylor, his executive officer, two captains, seven lieutenants, and fourteen sergeants were administratively transferred by Police Commissioner Ward. The precinct's commanding officer was demoted and transferred.

What made this unwritten policy even more dangerous to the public and the Department itself is that Commissioner Ward had reason to know that the 77th Precinct was not the only potentially widespread corruption problem facing the Department in the mid-1980s. Shortly before the 77th Precinct indictments were announced, the Special Prosecutor, Charles J. Hynes, met with Ward to discuss other commands where drug-related corruption might be flourishing. Hynes presented Ward with an analysis done by his office listing seventeen precincts in Manhattan, Brooklyn, and Queens, where the volume of drug corruption allegations indicated the need for additional IAD investigations. High atop the list was the 75th Precinct (See Exhibit A).

According to Hynes, Ward refused to approve any additional corruption investigations. In Hynes's view, Ward's response was not the result of a weak resolve to stop corruption, but arose from his unshakable belief that further corruption revelations would cripple the Department's ability to perform its job. Whatever the motivation, the Commission has concluded that Commissioner Ward and Chief Sullivan -- by their action or inaction -- created an unmistakable policy to avoid corruption scandals.

### **The Brooklyn North FIAU**

Under these circumstances, Sergeant Joseph Trimboli joined the Patrol Borough Brooklyn North Field Internal Affairs Unit ("PBBN/FIAU") in 1986. As an FIAU investigator, Trimboli had the duty of conducting corruption investigations within the eleven precincts of the Brooklyn North Patrol Borough. His unit, like all FIAUs, reported to two separate supervisors: IAD and the borough commander.

Although the FIAU reported in the first instance to the borough commander, the bulk of its corruption case assignments came from IAD. IAD was supposed to act as the central intelligence-gathering and investigative body of the Department's internal investigations system. IAD received all complaints and allegations of corruption, processed them for administrative and intelligence purposes, and assigned the case for investigation. IAD's commanding officer, or executive officer, had the unbridled discretion to retain corruption allegations for investigation by IAD or to assign them out to the appropriate FIAU where they became the primary responsibility of the borough commander. Nonetheless, IAD was supposed to retain for investigation: (i) especially serious or complex allegations; (ii) allegations that crossed command lines; (iii) allegations against high-ranking police officials; (iv) allegations against members of IAD itself; and (v) any other allegation that involved particularly sensitive aspects of police work.

In addition, if IAD assigned an investigation to an FIAU, it had the responsibility to insure the quality of the FIAU's investigation. Through its Staff Supervisory Unit, IAD was supposed to review and evaluate the FIAU's investigation and provide it with guidance and assistance. In fact, if IAD was dissatisfied with an FIAU's investigation, it had the power

to take over the investigation, re-investigate the case on its own, or conduct a parallel investigation to insure the FIAU did a thorough and professional job.

When Trimboli joined the PBBN/FIAU, he knew he was in for a busy time. According to Trimboli and many other police officers interviewed by the Commission, the Brooklyn North Patrol Borough had a Department-wide reputation as a command filled with hardened cops, crime-ridden neighborhoods, and plentiful opportunities for corruption. Brooklyn North had, and continues to have, one of the highest volume of corruption complaints under investigation at any given time.

Despite this situation, the PBBN/FIAU had neither the personnel nor the resources to do its job effectively and yet IAD – whose commanders were fully aware of these circumstances – continued to assign it serious and complex corruption cases. In the period from 1986 to 1992, the PBBN/FIAU had an average of eighteen investigators, each handling an average of twenty-five cases at any one time – an impossible task for any investigator. At the same time, IAD and FIAU supervisors pressured investigators to close cases and reduce backlog.

The basic equipment necessary to conduct police corruption investigations was simply not available. As Trimboli put it, in his seven years in PBBN/FIAU all he had available on a consistent basis was “a pair of binoculars, a camera and a paper shredder.” Even more disturbing, no help or additional resources was ever forthcoming either from IAD or the borough commander. Simply put, the paltry resources and unmanageable workload of the FIAU indicated to Trimboli and other corruption investigators we interviewed that corruption fighting was plainly not a high priority of the Department's bosses. According to them, internal investigators were, for the most part, “paper pushers” – getting investigations closed for the record-keepers – rather than serious corruption fighters. And worse, no one seemed to care.

### **Trimboli and the 75th Precinct**

Trimboli's first encounter with corruption in the 75th Precinct came in 1986. The subject of his investigation was Police Officer Michael Dowd.

On March 4, 1986, the PBBN/FIAU opened a case on Dowd and his partner Gerard Dubois (corruption case no. 86-0449) based on an allegation received from the 75th Precinct's commanding officer, Deputy Inspector Kevin Farrell,<sup>2</sup> that Dowd and Dubois stole money from drug dealers, prisoners, and deceased persons. The investigation was assigned to Sergeant Trimboli.

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<sup>2</sup> Farrell was the commanding officer of the 75th Precinct from April 1984 through December 1986.

Although this was the first allegation against Dowd for drug-related corruption, Dowd already had a history of misconduct. In 1985, IAD assigned two investigations against Dowd to the PBBN/FIAU, one for harassing and threatening his girlfriend (who later became his wife) (corruption case no. 85-0183) and the other for engaging in sexual acts with prostitutes in Bailey's Bar (corruption case no. 85-2532) where Dowd and his colleagues often socialized and discussed their corrupt deeds. Both of those investigations were closed as unsubstantiated.

By Dowd's admissions to Commission investigators, by March 1986, Dowd and his "crew," including Officers Dubois, Henry "Chickie" Guevara, Jeffrey Guzzo, Brian Spencer, Walter Yurkiw, Henry Jackson, and others had for over a year already become routinely involved in drug corruption by stealing money and drugs from street dealers, radio run locations, and by "scoring" (stealing) almost every opportunity that presented itself. Yet, it took over a year for internal investigators to begin their first drug-related investigation of Dowd. In fact, just four days after the initiation of the Dowd and Dubois investigation, IAD assigned the PBBN/FIAU another investigation into allegations of brutality by Dowd, Guevara, Guzzo, and other 75th Precinct officers (corruption case 86-0039).

Obviously, the Department's intelligence-gathering system had fallen down on the job, even though suspicions about Dowd's and Dubois's conduct circulated among officers and supervisors of the 75th precinct, including the precinct's commanding officer, Deputy Inspector Farrell. After all, it was Farrell who reported Dowd and Dubois to IAD in March 1986; and in June 1986, he assigned both Dowd and Dubois to the Coney Island Summer Detail, a well-known "dumping ground" used by police commanders to get discipline problems out of their commands and beyond their responsibility -- at least for the summer. Interestingly, when questioned by Commission investigators, (now) Deputy Chief Farrell denied any knowledge of a corruption problem within the 75th Precinct during his tenure. Even when shown the corruption log documenting his report to IAD, Farrell still claimed to have no recollection of making any allegation against Dowd, Dubois, or any other officer in that command.

Trimboli's investigation into Dowd and Dubois continued when Dowd returned to duty in the 75th Precinct in September 1986.<sup>3</sup> The investigation was closed in April 1987. Although it failed to substantiate the original drug-related allegations, Trimboli observed

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<sup>3</sup> By that time, Dubois had resigned from the Department. According to Dowd, Dubois resigned, ironically, because he believed that he, Dowd, and other officers of the 75th Precinct would soon be arrested based on rumors of a large number of imminent arrests of police officers in Brooklyn North. Little did Dubois know that the arrests would occur (four months later) in the 77th Precinct and not in the 75th. Dowd, on the other hand, continued his career of corruption for another six years until May 1992 when he was arrested not by the Department, but as the result of an investigation conducted by the Suffolk County District Attorney's Office.

Dowd and his new temporary partner, Walter Yurkiw, engage in several patrol violations while on duty. As a result, Yurkiw received a Command Discipline;<sup>4</sup> Dowd pleaded guilty to charges of being off post and failure to safeguard his Department radio. He received a penalty of eight forfeited vacation days. Despite his years of corruption and crime as a police officer, eight forfeited vacation days represents the only penalty -- other than a single command discipline -- that the Department ever imposed on Dowd until his arrest in May, 1992.

### **The R&T Grocery Store Robbery**

Although Trimboli had not known Yurkiw before 1986, it was Yurkiw who put Trimboli back on Dowd's trail in the Summer of 1988. On the evening of July 1, 1988, Yurkiw along with 75th Precinct police officer, Jeffrey Guzzo, and former 75th Precinct police officer Chickie Guevara robbed at gun point the R&T Grocery Store, a drug location, on Livonia Avenue in the 75th Precinct. After the robbery, Yurkiw reported for duty at the 75th Precinct leaving the car he and his accomplices used in a nearby parking lot with proceeds of the robbery sitting in plain view. Only hours later, officers of the 75th Precinct's Robbery Unit took Yurkiw into custody and the commanding officer of PBBN/FIAU, Captain (now Deputy Inspector) Stephen Friedland, responded to the precinct. The next morning, at the direction of IAD's commanding officer, Assistant Chief John Moran, an IAD investigations unit under the command of Captain (now Deputy Inspector) Thomas Callahan took over the investigation from the FIAU.

Unlike IAD, Friedland was not satisfied in treating this robbery as a discreet and isolated incident as IAD was to do. He suspected that the R&T Grocery Store robbery indicated wider and deeper problems of corruption within the 75th Precinct. On July 11, 1988, he directed that the FIAU initiate a self-generated investigation into corruption within the entire 75th Precinct and assigned Sergeant Trimboli to undertake that investigation. Thus began Trimboli's years of frustrated attempts to apprehend Michael Dowd and his accomplices.

Friedland had good reason to suspect extensive corruption within the 75th Precinct. Since Dowd returned from the Coney Island detail in 1986, he and his partners, such as Walter Yurkiw, Jeffrey Guzzo, and Kenneth Eurell, regularly engaged in corruption and crimes both on and off duty. By the Summer of 1987, Dowd and Eurell were on the payroll of a major drug organization, taking \$8,000 a week in return for providing protection, information, and assistance. Off duty, Dowd, Yurkiw, Guzzo, and Guevara, with the aid of drug dealer accomplices, were committing armed robberies of drug locations in East New York, and Dowd and Eurell were selling cocaine in Suffolk County. By the Fall of 1987,

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<sup>4</sup> A Command Discipline is a notation of a minor infraction noted in precinct records. It may, or may not, be accompanied by a penalty.



only a year after the 77th Precinct scandal should have taught the Department a lasting lesson, Dowd was driving a new red Corvette sports car into the precinct every day, wearing expensive clothes, throwing lavish parties for friends, and taking limousines from the precinct on gambling jaunts to Atlantic City.

According to Dowd, he did not conceal his well-heeled lifestyle from fellow officers and supervisors, and not one of them ever confronted him to explain what were obvious indications of corruption. In fact, Dowd contends, the opposite was true. Some officers wanted to join him in making scores, and supervisors were content to avoid him rather than challenge him. Dowd knew his supervisors were not naive. Thus, their complacency not only failed to deter his criminal conduct but actually encouraged it.

As early as 1987, IAD's commanders must also have known that Dowd and other officers of the 75th Precinct were engaged in serious crimes. From November 1987 to January 1988, when Dowd and Eurell were at the depths of their corrupt activities, IAD received eight separate allegations involving Dowd, Eurell, and other officers of the 75th Precinct. By the end of 1988, Dowd alone had nine separate allegations of corruption lodged against him at IAD. By the end of 1991, IAD received four more corruption charges against Dowd.

Despite the incontrovertible indications of serious corruption on the part of Dowd and other officers of the 75th Precinct, IAD's commanders over six years, Chiefs Daniel Sullivan, John Moran, and Robert Beatty, never initiated a single investigation of Dowd, until they learned of Dowd's impending arrest by Suffolk County law enforcement officers. They never directed that a single integrity test be attempted; they never placed an undercover in the precinct; they never sought information from the Department's vaunted field associates; they never sought information from the Department's narcotics units. Instead, they directed that each one of the corruption complaints against Dowd and others be assigned as separate corruption cases to the overworked and unequipped PBBN/FIAU, where they became the responsibility of the borough commander and where these cases inevitably died a natural death. In the course of six years, IAD assigned to the PBBN/FIAU no less than twelve separate corruption cases involving Dowd. Every one of them was finally closed as unsubstantiated, and most of those case closings were approved by Brooklyn North's borough commander, Thomas Gallagher, and IAD's commanding officer, Robert Beatty.

What makes matters worse, the corruption complaints received by IAD over the years represented only a small part of IAD's knowledge about Dowd and other corrupt 75th Precinct police officers -- the investigation of the R&T Grocery Store robbery told much more.

## Corruption in the 75th Precinct

After Yurkiw's arrest on July 1, 1988, IAD's Captain Thomas Callahan, Sergeant (now Lieutenant) William Bradley, and other IAD officers of Complaint Investigation Unit 1 ("CIU 1") commenced their attempts to identify Yurkiw's accomplices. By this time, IAD was working the robbery investigation with attorneys of the Office of the State Special Prosecutor ("OSSP"). At every turn, they learned new information about Dowd.

On July 7, 1988, three weeks after the robbery, the 75th Precinct's commanding officer, Deputy Inspector John Harkins, informed Callahan that precinct rumor connected Dowd to the robbery. On July 11, 1988, Lieutenant Richard Armstrong, the precinct's Integrity Control Officer, told IAD investigators about Bailey's Bar, a hangout for Dowd and his crew. Armstrong told Callahan and his investigators that he had information that just before the time of the robbery Dowd was inside Bailey's Bar with Yurkiw, Guzzo, Guevara, and another 75th Precinct Officer, Kimberly Welles.

On July 28, 1988, just three weeks after the robbery, Bradley and OSSP attorney Daniel Landes interviewed two informants who were cooperating with the United States Attorney's Office for the Eastern District of New York.<sup>5</sup> These informants, like Dowd, worked for the Adam Diaz drug gang. They told Bradley and Landes that their drug organization paid Dowd \$3,000 to \$4,000 and an ounce of cocaine each week in return for police protection. One of the informants even picked out Dowd's and Guevara's photographs from photo arrays.

As procedure dictated, Bradley recorded this information on work sheets and relayed it to Callahan, CIU 1's commander, and up IAD's chain of command to Inspector Michael Pietrunti, the chief of IAD's Investigations Section, Deputy Chief William Carney, IAD's Executive Officer, and ultimately to IAD's commanding officer, Assistant Chief Moran. Although this information corroborated a number of corruption complaints about Dowd that IAD had received just months before, IAD did nothing with this crucial information other than to pass it on to Sergeant Trimboli -- six weeks later. IAD made no attempt to use this information to expand their robbery investigation to include Dowd. In fact, by Callahan's own admission, by August 1988, Dowd was not a target of IAD's investigation.

If Callahan and his superiors believed that all this information was not enough to justify a full-scale IAD investigation into Dowd and drug corruption in the 75th Precinct, even more information was to come.

On August 29, 1988, detectives of the 62nd Precinct arrested Yurkiw (who was out on bail on the robbery charges) for harassing his former girlfriend. After his arrest,

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<sup>5</sup> Because of the possibility of their continuing cooperation with law enforcement, the names of these informants will be withheld.

Detective Gerard Wiser overheard Yurkiw on the precinct telephone stating: "If this [his arrest] isn't handled right, he would call Hynes's Office [the OSSP] and blow the whistle." Detective Wiser passed on this information to Bradley. Although no one at IAD bothered to check, Yurkiw's telephone call was to Michael Dowd. Yurkiw was attempting to pressure Dowd into coercing his girlfriend to drop the harassment charges. No one at IAD, moreover, ever asked Yurkiw what information he possessed about which he could "blow the whistle." In fact, attempting to turn Yurkiw or any of his accomplices (with the cooperation of the OSSP, of course) was not an investigative tactic ever attempted by IAD.

The next day, Bradley interviewed Yurkiw's girlfriend, an admitted cocaine user. She told Bradley that she knew Yurkiw was a corrupt cop. She told him that on a number of occasions, she had seen him in his apartment with Dowd, Guzzo, and Guevara in possession of large quantities of cocaine and money laid out on the kitchen table. IAD did nothing with this information other than record it in a worksheet and pass it on to the OSSP.

But that was not the end of Yurkiw's girlfriend's information. Three months later, on November 30, 1988, IAD arrested Yurkiw again on her complaint that Yurkiw had threatened her life to force her to act as an alibi witness for him at his robbery trial.

From November 30 to December 1, 1988, Sergeant Bradley interviewed Yurkiw's girlfriend four times. Her information confirmed that the 75th Precinct was in the throws of rampant drug corruption. She gave Bradley specific information. She reported that Yurkiw told her that there was a group of approximately twenty-five police officers in the 75th Precinct who were systematically robbing drug dealers and drug locations. She told Bradley that before the July 1988 robbery of the R&T Grocery Store at 923 Livonia Avenue, she had observed that address and others on a list of known drug locations in East New York that Yurkiw kept in the glove compartment of his car. She told Bradley that these robberies were taking place since February 1987 and that Yurkiw transported cocaine from drug locations in the 75th Precinct to Suffolk County for Michael Dowd and his brother, who was also a police officer.

When questioned by Commission investigators, Yurkiw's girlfriend stated that based on her conversations with Yurkiw and her observations of his activities with Dowd and other police officers, she knew that the 75th Precinct suffered a corruption problem of large dimensions. She said that she could tell that IAD investigators did not believe her. She was right. In his report of his November interviews with her, Bradley added a personal assessment of her credibility. In essence, Bradley stated that because she was an admitted drug user and had a romantic entanglement with Yurkiw, her "credibility and allegiances were suspect" (See Exhibit B). It is very curious, however, that her allegations and credibility were sufficient to constitute the basis of two additional arrests of Yurkiw in August and November 1988.

According to Bradley, he forwarded all of this information to his superiors: Callahan, Pietrunti, Carney, and Moran. Not one of them ever directed that IAD explore Yurkiw's girlfriend's allegations in any way. In fact, IAD never even assigned her information a corruption case number, as procedure dictates for every corruption allegation that comes to IAD's attention. Her information indicating large-scale corruption in the 75th Precinct was, in a word, buried.

On December 27, 1988, IAD's investigation of the R&T Grocery Store robbery was closed with a final report written by Bradley and Callahan, endorsed by Chief Moran and addressed to Chief Sullivan. Despite all the evidence IAD had obtained about his corrupt activities, the final report makes not a single mention of Michael Dowd. No one at IAD ever initiated a single investigation of Dowd or any other police officer of the 75th Precinct despite the extensive evidence.

Incredibly, neither Callahan, Bradley, nor any other IAD investigator communicated this vital information to Sergeant Trimboli, who, by this time, was conducting a one-man, precinct-wide investigation into corruption in the 75th Precinct. It was only in October 1989, when Trimboli was finally allowed to review IAD's case files, that he learned about Yurkiw's girlfriend's information, Yurkiw's telephone conversation overheard by Detective Wiser, and the fact that at the time of his sentencing Guzzo offered to provide information to IAD about other corrupt cops in the 75th Precinct -- all critical information that IAD had in its possession for months, never put to any use, and never told to Sergeant Trimboli.

### **The Trimboli Investigation**

At the same time IAD was investigating the R&T Grocery Store robbery with a team of seven investigators, including two sergeants, two lieutenants, and a captain, Sergeant Trimboli alone was conducting the investigation that IAD should have undertaken: the investigation of potentially widespread corruption within the 75th Precinct. When questioned by former Police Commissioner Raymond Kelly and later by Commission investigators about IAD's startling lack of action against Dowd during the R&T Grocery Store investigation, Callahan stated that he thought PBBN/FIAU was "hot on the trail of Michael Dowd." But Callahan and his superiors had reason to know otherwise.

When Trimboli launched the PBBN/FIAU's self-generated case (corruption case no. 88-966) in July 1988, IAD's Chief Moran or his executive officer, Chief Carney, ordered a "monitor" of the investigation, a relatively rare practice for IAD. The monitor required Trimboli to submit his worksheets to IAD on a weekly basis, allowing them to watch Trimboli's progress closely and keep a contemporaneous account of his investigation's developments. Placing a monitor on the case told Trimboli that, for better or for worse, IAD's commanders had a special interest in the progress of his investigation.

By the Fall of 1988, when IAD had already ruled out Dowd as a subject of their robbery investigation, Trimboli had acquired enough information to know that the 75th Precinct's corruption problems went far beyond even Michael Dowd. And, through its monitor of the case, so did IAD.

Two months into Trimboli's investigation, in September 1988, 75th Precinct detectives arrested Jorge Royos,<sup>6</sup> a drug dealer with connections to East New York drug traffickers Adam Diaz and Baron Perez. After his arrest, Royos, wanting to make a deal, told detectives he often socialized with police officers, including Michael Dowd, his brother, Guzzo, Guevara, and Kenneth Eurell. He informed the detectives that the Dowds used cocaine and associated with drug dealers at Auto Sound City, an East New York car stereo store. Trimboli knew that Auto Sound City was connected to Dowd. On two separate occasions Trimboli observed Dowd's red Corvette parked inside the location. On the second occasion, Trimboli actually had a conversation with Perez who admitted that he knew Dowd and that various cops from the 75th Precinct visited Auto Sound City.

While in jail awaiting trial, Royos telephoned Trimboli in October 1988, about a month after their first meeting. He told Trimboli that he was willing to give him more information about "the man with the red Corvette." After notifying IAD of the offer, Trimboli interviewed him.

Royos confirmed what Trimboli had already strongly suspected. Auto Sound City was a front for a large drug organization and was used as a center for the delivery and distribution of cocaine and the transportation of guns. He told Trimboli that someone named Adam (Adam Diaz) ran the operation and paid off Dowd for police protection and for special deliveries of cocaine in amounts of five kilograms or more. He told Trimboli that Yurkiw, Guzzo, and Guevara committed armed robberies of drug locations where Dowd informed them drugs had been delivered. He also told Trimboli that Eurell was a heavy drug user. Royos agreed to view photo arrays and assist Trimboli's investigation.

With Royos's help, Trimboli's investigation now showed promise of apprehending 75th Precinct officers who were involved in serious narcotics corruption. But he knew he could not do it alone. A case of such magnitude, he believed, required IAD's assistance and expertise. He also knew that at that very time, IAD's Captain Callahan was investigating the armed robbery of the R&T Grocery Store committed by Yurkiw, Guzzo, and Guevara, three of the 75th Precinct Police Officers Royos identified.

The day after he interviewed Royos, Trimboli telephoned IAD. He spoke to Lieutenant Hotaling of IAD's Staff Supervisory Unit, briefed him on Royos's information, and requested IAD's participation and assistance. Hotaling, sensing that the case had reached a critical juncture, told Trimboli that he would consult Callahan.

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<sup>6</sup> The name of this informant has been changed to protect his identity.

When questioned by Commission investigators, Hotaling stated that in the Fall of 1988, the R&T Grocery Store robbery investigation was the most significant police corruption case IAD was conducting at that time. According to his testimony, IAD investigators and their superiors were well aware of the dimension of the corruption problems in the 75th Precinct, Dowd's central role in that corruption, and Trimboli's investigation. On occasion, he would inform Callahan of Trimboli's developments in an effort to persuade Callahan to expand his investigation to include Dowd and other 75th Precinct officers. Hotaling described Callahan's reaction to his attempts in a private hearing:

Question: Were you bringing Callahan the worksheets [of Trimboli's investigation]?

Hotaling: Oh yeah, I was bringing them to him let's say for the first three or four months. Captain Callahan wasn't thrilled with the fact that I was bringing him [Trimboli's] worksheets.

Question: What do you mean?

Hotaling: . . . [I]t got to the point when he said to me one time -- I brought a worksheet to him -- and I said, 'Captain, I got a worksheet on Dowd.' And he got very upset and he said, 'What are you bringing this here for?' [I said,] 'I'm doing a monitor on it and its relevant to the 75 [Precinct] and the case you are doing.' Then I was told by him, 'What does this have to do with my case? . . . I don't know why you are bringing this. It has nothing to do with my case, so don't bring it to me.' So I didn't bring them [Trimboli's worksheets] to him anymore. . . .

Question: So you were basically told by Captain Callahan not to give him information on Dowd?

Hotaling: . . . I wrote it off to the fact that Callahan . . . didn't want more work and what I was bringing to him might broaden his investigation; you know, it was the old 'kill the messenger' syndrome.

Just hours after Trimboli's conversation with Hotaling about Royos's information, Sergeant Robert Rockiki, Hotaling's subordinate, telephoned Trimboli and informed him

that Callahan declined to become involved with Trimboli's case and that Trimboli should continue with his own investigation. In response to IAD's refusal to assist Trimboli, the FIAU's commanding officer, Captain Friedland, telephoned IAD to reiterate the request for assistance. He was told by Captain (now Deputy Inspector) Martin Johnson, the commanding officer of the Staff Supervisory Unit, that IAD would provide no assistance and that the FIAU was free to contact any outside agency for assistance. Thereafter, Trimboli informed attorneys of the OSSP about the developments in his case.

In essence, Johnson's message was clear: IAD, the Department's central anti-corruption division, refused to assist an investigation of potential large-scale corruption; that if the FIAU needed help, it could turn to any agency but the one it was supposed to. This would not be the last time IAD refused Trimboli's pleas for help.

As Trimboli's investigation continued in November 1988, yet another informant<sup>7</sup> surfaced who had information on police corruption in the 75th Precinct. In jail on charges of burglary, this informant told PBBN/FIAU's Sergeant Kenneth Carlson that several officers of the 75th Precinct regularly bought and sold narcotics. His information corroborated what Royos had told Trimboli. He told Carlson (who debriefed the informant in Trimboli's absence) that he knew of seven officers, including Dowd, who were engaged in narcotics trafficking and was able to identify three of the officers from photo arrays. As Royos told Trimboli, this informant told Carlson that the officer who "drives the red Corvette" (Dowd) is a "runner" for a drug organization and makes deliveries of narcotics out of Auto Sound City. Also consistent with Royos's information, he told Carlson that Dowd set up the robbery of the R&T Grocery Store in July.

Even in the face of this corroborating information, IAD still failed to initiate a case against Dowd or other officers in the precinct. In fact, this information came less than four weeks before Yurkiw's girlfriend informed IAD's Sergeant Bradley of extensive drug corruption in the 75th Precinct. Yet, despite this mounting information, IAD's commanders, Moran, Carney, Pietrunti, and Callahan -- as they had done in the past -- treated these new allegations as a separate and unrelated case, gave it a new corruption case number, and assigned the investigation to the PBBN/FIAU.

Of course, when Trimboli received these new allegations he knew his case was expanding rapidly. According to Trimboli, by the end of November 1988, he already had fifteen to twenty 75th Precinct officers as subjects of his investigation. And IAD knew it. They continued to receive his worksheets on a weekly basis and continued to refuse to offer any assistance.

But Trimboli was not through asking for help. In late November 1988, the commanding officer of the Whitestone Pound, where Dowd had been assigned since August

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<sup>7</sup> The informant's name is withheld to protect his identity.

after his release from an alcohol rehabilitation clinic, notified Trimboli that he observed Walter Yurkiw at the Pound. To Trimboli and Friedland, Yurkiw's presence at the Pound where his car was being held as evidence in the grocery store robbery, confirmed Dowd's continuing association with corrupt cops despite his transfer out of the 75th Precinct.

In light of this event and the rapidly accumulating information about Dowd and others, Trimboli and Friedland met with their borough commander, Assistant Chief Thomas Gallagher, to inform him of the developments in Trimboli's investigation. According to Trimboli, Friedland, and the records in Trimboli's case file, Gallagher ordered Friedland to arrange a meeting for him with IAD's commanders to discuss a joint investigation into the 75th Precinct. When questioned by Commission investigators, however, Gallagher testified he had no recollection of ever requesting such a meeting.

Despite Gallagher's lack of memory, Trimboli's worksheets show that on November 21, 1988, Friedland telephoned Captain Johnson and Captain Joseph Nakovics of IAD to communicate the request, on behalf of Chief Gallagher, for a meeting with IAD's commanding officer, Chief Moran, to discuss the FIAU's need for personnel and equipment to assist Trimboli's investigation. Nakovics returned Friedland's call and told him that IAD would not offer any assistance to the FIAU, that there was no personnel or equipment to spare, and that a meeting at IAD was not necessary.

Trimboli was dumbfounded. He could not believe that IAD would abruptly refuse a borough commander's request for a meeting on an important case of police corruption. This was the second occasion that IAD refused the FIAU's direct appeal for assistance. From then on, Trimboli knew that if he was ever to apprehend Michael Dowd, he would have to do it alone. In his view, IAD's inexplicable behavior could only be explained in one way: IAD simply did not want his investigation to succeed; or as he testified at the public hearings, "they did not want it to exist."

Of course, although IAD told the FIAU to go away, information about Dowd simply would not go away. In December 1988, Trimboli and OSSP attorneys debriefed Royos again and he gave even more details of his involvement with Dowd, Yurkiw, and other officers. Most significantly, he stated that he was involved with Yurkiw, Guzzo, Guevara, and Dowd, in a number of armed robberies of drug locations. He stated that he set up the first of several stickups at the R&T Grocery Store by tipping off Yurkiw when narcotics would be on the premises. He stated that Yurkiw, Guzzo, and Guevara robbed the place on a number of occasions, culminating with their arrests in July 1988. He told Trimboli and OSSP attorneys Dennis Hawkins and Daniel Landes that after the robberies, they would meet at Bailey's Bar to divide the proceeds, ranging from a half pound to a full pound of cocaine. At least ten police officers, including Michael Dowd, his brother, and Kenneth Eurell used and divided the drugs. Royos also indicated that Adam Diaz, the boss of the drug organization connected to Auto Sound City, rented his father's grocery store on Blake Avenue in East New York and used it as drug sale spot. During that time, Dowd and Eurell



were in the store on a regular basis to collect their payoffs from Diaz. Trimboli passed on this information to IAD through its monitor of his case. Although Royos's latest information surfaced before CIU 1 closed its robbery investigation of the very same officers Royos identified, IAD still did not expand its robbery investigation to include these growing allegations.

Within a month, Trimboli got more news about Dowd. In late January 1989, he discovered that Dowd and a police officer, who was still assigned to the 75th Precinct, were taking a trip to the Dominican Republic, Adam's home country. The trip confirmed that Dowd continued his association with 75th Precinct officers who were subjects of Trimboli's investigation and made him suspect that Dowd might be delivering drugs for Adam across international borders. On his own initiative, Trimboli made arrangements with the Drug Enforcement Administration to keep track of Dowd's activities while in the Dominican Republic. Upon their return to New York, an FIAU investigator observed Walter Yurkiw at the airport to meet Dowd confirming their continuing association. This information was also delivered to IAD.

### **The Pro-Active Plan**

During February 1989, Trimboli and the OSSP made plans to release Royos from prison so that he could make a drug buy from Diaz in an attempt to turn him against Dowd, Eurell, and any other officers involved with Adam's drug ring. Once the OSSP finalized the arrangements with Royos and his attorney, Friedland notified IAD. This time IAD consented to a meeting.

Trimboli was suspicious. For the past ten months of his investigation, IAD had done nothing but throw roadblocks across his path. Now that, despite the odds, his investigation had achieved the prospect of infiltrating the drug ring at the center of police corruption in the 75th Precinct, IAD wanted to be consulted. As he told Commission investigators, Royos's cooperation was the most promising development of his investigation. But he was not sure whether IAD really wanted to help or simply wanted to keep an eye on what might be the beginning of another police corruption scandal. On March 9, 1989, Friedland and Trimboli attended a meeting at IAD, represented by Deputy Chief Carney, Deputy Inspector Pietrunti, Captain Johnson, and Captain Callahan. Although recollections differ greatly about the discussion at this meeting, it apparently involved obtaining IAD's approval for the planned use of Royos as an operative in Trimboli's investigation. Curiously, neither Moran nor Sullivan attended the meeting – although they were the only two in IAD's strict command structure with the authority to approve such an operation.

The results of the meeting, however, are clear. IAD refused to take any responsibility for removing Royos from prison to participate in the operation. According to Friedland, Moran had serious misgivings about removing Royos from prison for an

operation with a "remote chance of success." Moran insisted that if Royos were used, OSSP would have to take full responsibility for Royos and the operation, and Trimboli was prohibited -- either on his own account or on behalf of the OSSP -- from signing Royos out of prison. According to Friedland's recollection, Captain Johnson stated that if these conditions were met, IAD would provide an undercover officer for the operation.

In Trimboli's view, IAD's response to the Royos plan was another attempt to impede his investigation at its most critical juncture. Since his investigation had finally produced a potentially productive opportunity, IAD's commanders were in no position to disapprove it outright. Instead, they imposed difficult conditions of approval they thought could not be met.

To Trimboli, Johnson's conditional offer of an undercover officer was also suspect, since only Moran or Sullivan had the authority to authorize it, and neither of them even attended the meeting or ever communicated their approval of the plan to Friedland or Gallagher. Trimboli's view has merit. During interviews with Commission investigators, neither Chief Moran nor Chief Sullivan recalled being consulted on a plan to use Royos, let alone approving the use of an IAD undercover.

In response to IAD's conditions, the OSSP agreed to accept full responsibility for Royos and the operation. But before Royos ever hit the street, Trimboli ran into another roadblock. But this time it came not from IAD, but from his own borough commander.

### **The 79th Precinct Investigation**

In early April 1989, at Friedland's request, Trimboli met Friedland at FIAU headquarters. There, Friedland took Trimboli for a walk in a nearby park. He told Trimboli that Chief Gallagher wanted the PBBN/FIAU to initiate an immediate investigation into activities within the 79th Precinct. According to Friedland, Gallagher said he had received information from a confidential source known only to Gallagher that the 79th Precinct had a "possible small 77th Precinct-like situation in existence" (See Exhibit C). Friedland directed Trimboli to undertake the investigation immediately, even if it meant diverting attention from the 75th Precinct case.

Although he feared expressing his views at the time, Trimboli saw this new assignment as another attempt to stop his investigation into the 75th Precinct. Trimboli's conclusion again has merit. After all, the new assignment could not have come at a more crucial time. Trimboli was preparing to use Royos as an undercover -- his first pro-active opportunity to penetrate the drug ring that was paying off Dowd and Eurell. Moreover, when Trimboli asked to meet Gallagher's informant, Friedland said Gallagher would not divulge the identity of the informant nor allow Trimboli to debrief him. When questioned by Commission investigators, Gallagher could not remember the identity of the informant

nor recall when or how he received the information about the 79th Precinct. What he did remember, however, differed significantly from what he told Friedland at that time. According to Gallagher, his concerns about the 79th Precinct involved racial divisions among the officers in the 79th Precinct and had nothing to do with drug corruption. On Gallagher's and Friedland's orders, Trimboli spent over six weeks looking into the 79th Precinct. After many hours of surveillance, he did not detect a single patrol violation, let alone an indication of a 77th Precinct-like situation.

The Commission does not believe that it was mere coincidence that Chief Gallagher diverted the FIAU's time and attention from the 75th Precinct investigation, just at the time Trimboli's investigation showed the most promise of breaking another large police corruption scandal in Brooklyn North. Chief Gallagher must have had the fate of Chief Taylor in mind when he gave the order to redirect the FIAU to the 79th Precinct. After all, it was Gallagher who replaced Taylor as the Brooklyn North borough commander after the 77th Precinct scandal sidetracked Chief Taylor's career.

While Trimboli was made to chase red herrings in the 79th Precinct, his hopes of using Royos were dashed. Daniel Landes, the OSSP attorney working with Trimboli, informed him that he had learned from federal authorities that Adam Diaz had fled the country. In Landes's view, Diaz's absence made Royos useless to the investigation. He told Trimboli he was removing himself from the case and assigning it to Betsy Barros, another OSSP attorney. Trimboli strongly disagreed with Landes's conclusion that Royos no longer had value to the investigation. In Trimboli's view, IAD's refusal to assist him and the OSSP's decision to abandon the Royos plan in April 1989 killed any prospect for a successful investigation.

But Trimboli remained undeterred. He was determined to continue the investigation until every possible avenue had been tried. He undertook surveillance of Dowd and his associates on his days off and in his own car. He even ate his Sunday dinner in his car while observing Dowd's house on Long Island. And, during this time, he never once had an offer either from IAD or his FIAU superiors to provide him with any assistance.

#### **Yurkiw 's Offer To Cooperate**

Trimboli's last prospect of apprehending Dowd came from the same cop who triggered his investigation of Dowd fifteen months earlier: Walter Yurkiw. In October 1989, while Yurkiw was incarcerated for the R&T Grocery Store robbery, he had a telephone conversation with Trimboli from prison. Yurkiw agreed to talk about "the cop with the red Corvette" and others if he was visited in prison. When Trimboli advised the OSSP of Yurkiw's offer, Landes reentered the case. When Trimboli informed IAD of Yurkiw's willingness to talk and his intention of interviewing him, IAD prohibited Trimboli from doing so.

When Trimboli informed IAD about Yurkiw, IAD's Captain Nakovics told Trimboli that IAD investigators would conduct the interview of Yurkiw and that Trimboli was not invited to attend. Nakovics even ordered Trimboli to suspend his investigation until IAD had completed the interview. He required that Trimboli confer with him every two weeks to determine when Trimboli's investigation could be resumed.

Again, Trimboli was dumbfounded. IAD had once again intruded into his investigation at a critical juncture not to assist him but only to disrupt its progress. In Trimboli's view, there was no legitimate reason to prevent him from participating in the debriefing of Yurkiw, unless to control the information and thus the success of his case. For a month, Trimboli heard nothing from IAD about the results of the Yurkiw interview. But he did discover that IAD dispatched Sergeant Bradley and another IAD investigator by helicopter to the Oneida Correctional Facility in Rome, New York to interview Yurkiw. Obviously, despite their repeated assertions that they had no resources to spare Trimboli, IAD apparently had the resources when they wanted them.

By the end of November 1989, Trimboli had not received even a synopsis of the information IAD acquired from Yurkiw. Instead, what he received from IAD was yet another separate corruption case based on Yurkiw's allegations against ten current and former police officers in the 75th Precinct involved in the illegal use of narcotics (corruption case no. 89-2385). IAD was again fragmenting the case and assigning it out of IAD. When Trimboli reviewed the work papers, he found, to his amazement, no worksheet on Yurkiw's debriefing. He telephoned IAD and explained that if they expected him to investigate Yurkiw's allegations, he would need to see the results of the interview.

Finally, over a month after the debriefing took place, Trimboli received Bradley's worksheet. Incredibly, it was a brief, one-page summary providing no more than the barest account of Yurkiw's allegations against six officers in the 75th Precinct and one in the 105th Precinct (See Exhibit D). Even more incredibly, it contains not a single mention of Michael Dowd, although Yurkiw's offer was to talk about the cop "with the red Corvette."

To Trimboli and Commission investigators, Bradley's worksheet reflects a superficial interview of Yurkiw with no real interest in obtaining useful information about Dowd or any other corrupt police officer. In fact, the language of the worksheet attempts to minimize the credibility of Yurkiw's allegations. No wonder IAD excluded Trimboli from the interview. When interrogated by Commission investigators about the surprising lack of any information on Dowd, neither Bradley nor Callahan could explain it. Bradley testified that he asked questions about Dowd, but could not remember what Yurkiw said. As discussed below, a lack of memory about critical events was a common affliction among a number of IAD officials the Commission interviewed.

## Final Developments

Even after IAD squandered the opportunity to acquire evidence on Dowd through Yurkiw, information about Dowd kept coming to IAD. In January 1990, IAD received yet another allegation about Dowd, this time from the Drug Enforcement Task Force ("D.E.T.F."). The D.E.T.F. reported that one of its informants, on personal business at the Whitestone Pound, recognized Dowd as a police officer he had seen sampling drugs in Auto Sound City with a drug dealer named Baron (Baron Perez) in April 1989.<sup>8</sup> Of course, this new information was consistent with all the other allegations IAD had received about Dowd and drug corruption. And consistent with their past practice, IAD's commanders treated the allegation as a new and unrelated case, gave it a fresh corruption case number (corruption case no. 89-2617), and assigned it to PBBN/FIAU where it became the twelfth Dowd corruption case IAD assigned to the FIAU and the seventh for which Trimboli was made responsible.

Like all the other 75th Precinct investigations assigned to Trimboli, this latest one was doomed from the start without IAD's resources and assistance. Although the D.E.T.F. cooperated with Trimboli, for security reasons, they could not make their informant available to testify.

As a result, the D.E.T.F. allegation against Dowd, like all the others, was closed as unsubstantiated. In fact, by December 1991, the PBBN/FIAU closed as unsubstantiated thirteen separate corruption cases against Dowd. Each of those closings was approved by Chief Gallagher and IAD's commanding officers Chiefs Moran and Beatty. Dowd, in the meantime, remained in uniform continuing his career of corruption -- this time in the 94th Precinct, where he had been assigned since February 1990.

Even as IAD and the borough commander were approving the unsubstantiated closing reports on the Dowd corruption cases, IAD continued to receive reliable evidence of Dowd's crimes. In March and April 1991, Callahan (who had been promoted to Executive Officer of IAD), dispatched IAD investigators to interview two informants<sup>9</sup> who were cooperating with the United States Attorney's Office in Manhattan in an investigation of a major drug organization.

In essence, both men told IAD investigators that in 1987 and 1988, the boss of their drug ring paid thousands of dollars each week to police officers fitting the description of Dowd and Eurell for protection and information about impending drug raids. The

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<sup>8</sup> This was precisely the time Trimboli planned to use Royos in the investigation against Dowd.

<sup>9</sup> Because of the possibility of their continuing cooperation with law enforcement, their names are withheld.

informants reported that the officers often dealt with a middleman, Baron Perez, who paid off the officers inside his store. Besides protection, the officers provided the organization with police radios and shields and transported drugs for Perez in their police car. The officers also sold Perez drugs that they robbed from competitors. One of the informants even identified Michael Dowd from a photo array.

By this time, these allegations should have had the strong ring of familiarity and the mark of reliability for IAD. Here again were two apparently reliable informants telling IAD that Dowd and Eurell were drug dealers -- not cops -- involved in serious crimes: protection rackets, robberies, and drug trafficking. Yet, despite this new information and the mountain of information already accumulated on Dowd over the years, shockingly IAD did not initiate a full-scale corruption investigation of Dowd or anyone associated with him. Instead, they classified these new allegations as a "preliminary investigation."<sup>10</sup> If by the Spring of 1991, IAD had still not determined whether a full-scale investigation of Dowd, Eurell, and other corrupt officers associated with them was warranted, it should not have been in the business of corruption investigations.

The preliminary investigation lasted for a year. Based on our review, the entire case folder contained only memoranda of the interviews of the informants. No other investigative activity took place. IAD never communicated this information to Sergeant Trimboli, despite his years of frustrated attempts to apprehend Dowd. In fact, he first learned this information during an interview with Commission investigators. He was visibly distraught.

Happily, in the Spring of 1992, Dowd made a critical mistake. Suffolk County police, while investigating a drug operation in Suffolk County, intercepted Dowd's, Eurell's, and other corrupt New York City police officers' criminal telephone conversations. In March and April 1992, the Suffolk County police made two reports to IAD that they had evidence that New York City police officers, including Michael Dowd and Kenneth Eurell (who had by this time retired from the Department with a tax-free disability pension) were subjects of an ongoing narcotics investigation. After the second call (IAD assigned the first allegation to the PBBN/FLAU), IAD assisted the Suffolk County investigation. On May 6, 1992, after six years as an open and notorious drug dealer and racketeer in uniform, Suffolk County detectives finally arrested Dowd, Eurell, and four other police officers. Trimboli could only read about it in the newspapers.

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<sup>10</sup> IAD conducts a preliminary investigation in certain cases to determine whether a full-scale investigation is warranted.

## Comments

Trimboli's experiences raise questions that go to the heart of the competence and commitment of the Department's anti-corruption operations: how could the Department's internal investigators have failed to apprehend Dowd despite six years of clear indications of serious corruption and crime? Why did IAD fail to initiate a single investigation of Dowd and other officers assigned to the 75th Precinct despite extensive evidence of corruption? Why did IAD withhold critical information, witnesses, and resources that the FIAU needed to apprehend him? Why did IAD refuse to assist the FIAU to apprehend Dowd despite direct and repeated appeals for help?

The Commission was not satisfied with the Department's answer to these questions. By simply faulting the investigative structure and its lack of coordination and communication, the Department's Report on the Dowd case failed to address the full dimension of the problem. After all, the Commission found that there was plenty of information flowing from the FIAU to IAD but, curiously, not from IAD to the FIAU. In fact, IAD investigators withheld critical information from the FIAU investigators and denied them access to critical witnesses and resources.

Every one of the allegations against Dowd, furthermore, first came to IAD where its commanders reviewed and recorded the information before sending them piecemeal to the FIAU, which they knew lacked the basic resources to investigate cases other than minor misconduct. They monitored Trimboli's 75th Precinct investigation and received regular updates on its progress. On three separate occasions, moreover, the FIAU directly appealed to IAD's superior officers for help, and help never came. They knew the scope of the corruption problems in the 75th Precinct and never once even considered opening a broad 75th Precinct investigation. If IAD's commanders had wanted to, there was every opportunity to communicate and coordinate with the FIAU. The reason for the persistent failure of IAD's commanders to do their job cannot simply be blamed on just a bad structure. It necessarily calls into question IAD's resolve to pursue and root out serious corruption where its commanders knew it existed.

Nor can the blame for failing to apprehend Dowd be shifted to the OSSP. The OSSP was not the Department's internal investigator nor its inspector general. That role belonged to IAD and the FIAUs, which collectively had approximately five hundred investigators specifically assigned to root out police corruption. By comparison, the OSSP was a prosecutorial agency that, by 1986, employed only twelve attorneys and thirty investigators with city-wide jurisdiction over the entire criminal justice system, of which the Police Department was but one component. The OSSP, therefore, depended on the Department's internal investigators to conduct police corruption investigations and generate sufficient evidence to support a criminal complaint. When the prospect of generating such evidence existed, such as the plans to use Royos, the OSSP acted to further the investigation. To be sure, the OSSP was apprised of most of the information generated about Dowd by IAD and

the FIAU. But much of it came to the attention of OSSP attorneys months after its usefulness expired.

Nonetheless, the OSSP cannot escape all blame for the failure to apprehend Dowd and other officers of the 75th Precinct. In a word, the OSSP's failure in this case was not to recognize that if the investigation were to succeed, it could not depend on the Department alone, without outside pressure and guidance, to generate the evidence. In light of the information it had about corruption in the 75th Precinct, its experiences with the 77th Precinct, and its own 1986 analysis of drug corruption trends, the OSSP should have pressured the Department to assign a team of investigators with adequate resources to launch a precinct-wide investigation, especially after the Yurkiw robbery case.

But whatever omissions and missed opportunities may be imputed to the OSSP, none relieves the Police Department of its responsibility to effectively police itself. To determine the cause of IAD's startling refusals to act in the face of such a compelling accumulation of information of serious corruption in the 75th Precinct, Commission investigators reviewed hundreds of documents, questioned dozens of IAD, FIAU, and other Department officials. Responses to the Commission's questioning followed a predictable pattern of shifting blame.

Lower-ranking IAD officers, such as Sergeant Bradley, said they knew Dowd was a criminal and IAD should have made strong efforts to apprehend him. But, as junior officers, they had no authority over how or whom IAD would investigate, especially because the command structure at IAD was so strict that even high-ranking investigators had very little input into IAD's policies or decisions.

Middle managers, like Callahan and Pietrunti, while asserting that the Department ought to have made a case against Dowd, shifted the blame to the FIAU. In their view, their role as IAD investigators was to investigate only the allegation assigned to them and nothing more. If IAD's commanders assigned a case to the FIAU, it was the FIAU's and the borough commander's responsibility to insure the success of that investigation. According to them, if IAD were to expand an investigation beyond the four corners of the original allegation, that order could come only from the commanding officers of IAD, Chief Moran, Chief Beatty, or their superior, the Chief of Inspectional Services, Chief Sullivan. They had no view of corruption as a Department problem that IAD and the FIAUs -- as a team -- were commissioned to root out.

As the lower and middle-ranking officers pushed the responsibility up the chain of command, those at the top of the chain pushed it back downward. According to Chief Moran, his subordinates never informed him about critical developments in the Dowd case, like the plans to use Royos and information from other informants. But what he did know about Dowd, he communicated to his boss, Chief Sullivan. According to Moran, even as commanding officer of IAD, he could not make the decision to initiate a case into the 75th Precinct without Chief Sullivan's approval.



For his part, Chief Sullivan repeatedly described IAD's failure to act against Dowd as "glaring omissions." But when asked why such glaring omissions occurred under his watch, Sullivan claimed that his subordinates never informed him about Michael Dowd until 1992, when IAD received reports of corruption from the Suffolk County Police Department. When he was showed an August 1988 memorandum addressed to him from Chief Moran summarizing numerous allegations against Dowd at that time, Sullivan claimed never to have seen the document. In fact, during the course of his testimony at the Commission's public hearings, Sullivan either denied knowledge or had no recollection of significant events over thirty times.

But what Sullivan did remember provided the answer to our original question about why IAD refused to act in the face of such overwhelming evidence of corruption. As the Department's chief internal investigator for six years, Sullivan was in a position to know the unspoken policies that guided the Department, the policies that are not printed in the Department's manuals or operations orders. What he knew, or believed, was that the Department -- in fact, the Police Commissioner himself -- wanted to avoid corruption scandals at any cost.

The Commission has concluded that high-ranking members of the Police Department including IAD's top commanders as well as the Brooklyn North Borough Commander scuttled Trimboli's investigation into corruption within the 75th Precinct. When asked at the Commission's public hearings why the Police Department was unable to apprehend Michael Dowd, Trimboli responded:


Question: Based on your first-hand experiences in conducting these investigations, have you reached a conclusion that there were other reasons that the NYPD was unsuccessful in apprehending Michael Dowd?

Trimboli: I believe, based upon my experience, and obviously this is something that was discussed in my office among investigators who were aware of what I was involved in, that there was a lack of resolve to go after these individuals because it would involve initiating a scandal to what had occurred in the 77th precinct and that it would be a tremendous embarrassment to the New York City Police Department. (Tr. 124)

Obviously, Sergeant Trimboli was a victim of his own Department's misdeeds. The list of victims, however, is a long one. The vast majority of honest officers in the 75th Precinct and throughout the Department, who rightfully expected the Department to protect

their safety and reputation from the likes of Michael Dowd and his associates, and above all, the citizens of New York, who rightfully expect the Department to serve and protect them, suffered most.

STATE OF NEW YORK  
OFFICE OF THE SPECIAL STATE PROSECUTOR  
OFFICE MEMORANDUM

TO: Charles J. Hynes   
FROM: Hershey, Hawkins and Mangum  
RE: Corruption Allegations By Precinct  
DATE: August 5, 1986

A review of all corruption allegations involving police officers and drug operations for the period from January 1986 through June 1986 demonstrated that a significant number of such allegations came from certain precincts. The following is a numerical breakdown of those allegations.

	Precincts	#'s of allegations
Brooklyn	77	13
	75	8
	79	8
	72	6
	71	6
	70	6
Queens	113	13
	103	5
	114	4

Manhattan	9	10
	24	8
	7	5
	34	6
	30	5
Bronx	44	6
	43	6
	40	5

An analysis of the allegations from the precincts (the 77th, 113th and the 9th) reveals common elements that may be characterized as corruption indicators. For example, in the 77th, where we have independent information regarding corruption, the allegations over the sixth-month period identify [REDACTED] Restaurant (a.k.a. [REDACTED] Restaurant) at Troy and Lincoln as a drug location which is frequented by unidentified police officers, one of whom is known as "Blondie". This information comes from three sources, two anonymous (a phone call and a letter) and one a registered confidential informant. Using the information from 77th to construct a model, the factors that should be considered in analyzing allegations from other precincts are as follows:

- the source of the information
- specific drug locations
- the identities of drug dealers
- the identities of police officers
- the type of activity.

Utilizing these factors for an analysis of the 113th Precinct, there are a number of allegations that should be investigated. For example, two anonymous callers (1/29 and 6/1) report that unidentified police officers frequent the [REDACTED] Grocery Store, at [REDACTED] Guy Brewer Blvd, which is a drug location. The "twins" who run the spot have been seen sitting in an RMP with unidentified police officers. Three anonymous callers (3/12, 3/13 and 4/13) allege that unidentified police officers in an RMP enter a drug location at [REDACTED] 115th Road and exit putting things into their pockets. One anonymous caller (3/13) and the president of a block association allege that drugs are sold from a house at [REDACTED] 118th Road, which is owned by a police officer (identified as [REDACTED]). There are a number of other allegations that are similar to the ones received from the 77th, the most substantial of which involves a DEA investigation that point to two police officers involved with a female correction officer who sells drugs. (This case is assigned to [REDACTED])

In the 9th Precinct, seven drug locations are identified, and the names of dealers are given in three of the cases. At least 3 police officers are identified as having some contact with certain locations, and a number of unidentified police officers are alleged either to be protecting drug spots or to have taken drugs from dealers.

POLICE DEPARTMENT  
CITY OF NEW YORK  
INTERNAL AFFAIRS DIVISION

EXHIBIT B

INVESTIGATING OFFICER'S REPORT

From: Sgt William Bradley Command CIU #1

Case Number 69 s 88 Complaint Number                      Other                     

Accompanying Investigator(s) Det Edward Addison

Subject: 75 PCT BODEGA ROBBERY

Time 1330 hrs

Date Wed 11-30-88

On the above date and time the assigned investigators were present at [redacted], Brooklyn to interview [redacted], Yurkiw's former girlfriend. [redacted] stated that Yurkiw had verbally threatened her life if she did not provide him with an alibi for the night of 7-2-88 (night of robbery). She stated that he should tell [redacted] (Yurkiw's attorney) not to worry that she would alibi for him. [redacted] also stated that Yurkiw told her he would "get" Sgt Bradley because he was romantically involved with her.

[redacted] also told the undersigned that Yurkiw had told her that a contract is going to be put out on the members of the [redacted] and [redacted] families. Yurkiw told her that he could not hit [redacted] or [redacted] directly because the cops would know who did it.

It is also alleged that there is a group of about 25 cops assigned to the 75 Pct who at one time or another would rip-off known drug locations and bodegas that deal in drugs. [redacted] said she knew this because Yurkiw had told her that at least 2 female cops are involved. One of the females is alleged to be the girl friend of PO Michael Dowd (currently on modified assignment assigned to the White-stone Pound). The other female is described only as f/w with blond hair. [redacted]

[redacted] also stated that prior to the robbery at 923 Livonia ave she observed that address and others on a list that Yurkiw kept in his car of known drug locations within the East New York area. (alleged crack or heroin traffic at 923 Livonia).

[redacted] stated that on 11-25-88 Yurkiw was in the process of picking up a package (cocaine) for Dowd at a house in the East New York section when a group of cops burst in and announced "Police". At this point the cops ordered all the people (15-20) to lay on the ground and systematically robbed them. Yurkiw was one of the "victims". Once the uniformed cops found out who Yurkiw was they returned his property to him. [redacted] said that this practice has been going on since about 1-87. At the time of the alleged rip-off Yurkiw was in the process of picking up drugs for PO Michael Dowd and his brother PO [redacted] (currently on modified assignment and participating in the alcohol abuse program). It was also stated that Yurkiw and the two Dowds are couriers for major drug traffickers in the East New York area. They are alleged at this time to be skimming from the kilos of cocaine and dealing in "eight ball" (1/8 oz of cocaine). This practice has been going on for about two to three months.

During the course of the interview [redacted] alluded to the fact that she has on occasion used drugs with Yurkiw and some of her friends. She stated that the last time was on 11-28-88 when Yurkiw came to her apartment with 2 "eight-balls". Yurkiw did one by himself and fell asleep. While there he allegedly got up during the night and broke almost everything in the apartment. [redacted] then called her friend, unidentified, who came over and helped put Yurkiw back to sleep. Both females then consumed the second "eight-ball" of cocaine. When Yurkiw awoke that morning he became violent because the cocaine was not there and struck [redacted] numerous times about the body. Yurkiw then left and returned on two occasions (over)

Expenses Incurred

Invest. Off. SGT. William A. Bradley  
Rank & Sign. WILLIAM A. BRADLEY

Supr. CAPT. [redacted]

GUY R. SINGH

on 11-29-88. [REDACTED] then notified the 62 Pct and formally filed a-Complaint against Yurkiw (62 Pct 61#15505# Det Flynn assigned).

\*\*\*\*\*REGARDING [REDACTED]\*\*\*\*\*

ALL INFORMATION CONCERNING POLICE MISCONDUCT WAS TOLD TO HER BY YURKIW

SHE NEVER WITNESSED ANY MISCONDUCT EXCEPT FOR YURKIWS DRUG USE AND HARASSMENT  
PROPERTY DAMAGE CONCERNING HERSELF

SHE HAD NO SPECIFIC INFORMATION CONCERNING POLICE MISCONDUCT: E.G. IDENTITIES,  
LOCATIONS, TIMES.

SHE IS AN ADMITTED COCAINE USER.

SHE DESCRIBES YURKIW AS A HEAVY COCAINE USER SUBJECT TO FITS OF VIOLENT TEMPER.

SHE ADMITS TO A CHANGEABLE ROMANTIC RELATIONSHIP WITH YURKIW.

HER CREDIBILITY AND ALLEGIANCES ARE SUSPECT.



From: Joseph Trimboli Command PBEN/FIAU  
Case Number SG 89-1000 Complaint Number \_\_\_\_\_ Other \_\_\_\_\_  
Accompanying Investigator(s) None  
Case Investigator: \_\_\_\_\_ Command \_\_\_\_\_  
Subject: Initiation of Investigation  
Time 1230 Date April 4, 1989

On this date the Commanding Officer of FIAU, Captain Friedland, advised this investigator in the presence of Sergeant Smalls that he had a conversation with Chief Conroy on April 3, 1989. During the course of the conversation Chief Conroy told Captain Friedland that a confidential source had reported to <sup>Chief Conroy</sup> that the 79 Precinct has a possible small / 77 Like / situation in existence. The Chief asked that this unit monitor specialized units of the 79 Precinct including the Late Tours, Anti-Crime, CPOP, Sneu, and Topac. He asked that this patrol be monitored with a radio. Captain Friedland indicated that some of our attention will have to be diverted from the Operation 966 (75 precinct) in order to comply with this new investigation. In addition the Chief provided Captain Friedland with the names of three officers formerly assigned to the 77 precinct whom he feels also bear watching (formulate an SG on each officer). These officers were P.O. [REDACTED] 83 Precinct, P.O. [REDACTED] 83 Precinct, and P.O. [REDACTED] of the 81 precinct.

Captain Friedland's discussion of his conversation with the undersigned took place on 4/4/89 the morning after his initial conversation with Chief Conroy. On 4/4/89 Captain Friedland had a second conversation with Chief Conroy <sup>with Chief Conroy</sup> during which they reviewed the strategy formulated for this investigation by the undersigned.

On 4/5/89 the undersigned had a second conversation with Captain Friedland

<u>Time Spent</u>	<u>Vehicle(s)</u>	<u>Expenses Incurred</u>
Cler <u>1 Hour</u>	Dept. No. <u>N/A</u>	<u>N/A</u>
Observ. _____	Pvt. No. _____	_____
Interv. _____		_____
Travel _____		_____
Invest. Off <u>[Signature]</u>	Supr. <u>[Signature]</u>	
Rank & Sign. _____		



relative to this investigation. I.O. expressed concern over whether or not IAD had been notified that this investigation was about to begin. I.O. felt that the notification should be made before the investigation begins. Captain Friedland indicated that he did not know that the Chief had not already contacted IAD about this matter. I.O. also asked Captain Friedland whether or not the Chief's source had given him specific information that would be of value to this investigation and was told that the Captain felt that we had been given all that the Chief was privy to.

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POLICE DEPARTMENT  
CITY OF NEW YORK  
INTERNAL AFFAIRS DIVISION

INVESTIGATING OFFICER'S REPORT

From: Sgt William Bradley Command CTU #1  
 Case Number Prelim 223789 Complaint Number \_\_\_\_\_ Other \_\_\_\_\_  
 Accompanying Investigator(s) Lt John Shields  
 Subject: EX-PO YURKIW/ALLEGED POLICE MISCONDUCT  
 Time 1300 hrs Date Mon 11/13/89

On the above date and time the assigned investigators were present at the Oneida Correctional Facility, Rome New York, and interviewed Ex PO Walter Yurkiw. Yurkiw stated that he had reached out to his street contacts and that only one would supply information to him. This unidentified person also said that he would not talk to the Police until he gets arrested for something. Basically all of Yurkiw's allegations were things that occurred while he was still a Police Officer. A synopsis of the interview follows:

A= Stated that PO [REDACTED], 75 Pct Anti-Crime, and ex- PO's [REDACTED] and [REDACTED] deal guns in the 75 Pct. Yurkiw was asked for other independent witnesses who could verify this and said that the only one would be a guy named [REDACTED] who lives on Halsey st in Brooklyn. No further information. Also reports that [REDACTED] drives expensive autos.

B= PO [REDACTED], 75 Pct, has a drug problem. No further information.

C= PO [REDACTED], 75 Pct, runs drugs for an individual named [REDACTED] from a bodega on Blake ave named [REDACTED]. [REDACTED] was arrested in 1988 for drugs and at one point was debriefed by members of this division and SAAG Dan Landis. MR Landis deemed his information at the time believable but again unverifiable. No further information.

D= PO [REDACTED], 75 Pct, uses marijuana. No further information.

E= PO [REDACTED], 75 Pct, drinks on duty. No further information.

F= PO [REDACTED], unknown Pct, has a cocaine problem. The assigned check the printout for MOS and no [REDACTED] was discovered. No further information.

G= PO [REDACTED], 105 Pct, was allegedly observed by Yurkiw in the winter of 1988/89 at Madison Square Garden in the mens room snorting cocaine. No further information.

H= Sgt [REDACTED], 75 Pct, does ripoffs of people in the 75 Pct. Yurkiw informed the assigned that [REDACTED] did ripoffs of people in the 75 Pct and that EX-PO [REDACTED], told him that [REDACTED] used to do the same thing in the 30 Pct. Yurkiw said that [REDACTED] did not wish to relate this allegation to IAD at this time.

NOTE\*\*\* Yurkiw also stated that Lt [REDACTED] and Sgt [REDACTED] directed him to stop making drug collars out of his sector at known drug locations. Yurkiw said that [REDACTED] and [REDACTED] had ulterior motives for doing this but did not specifically say any misconduct was involved.

On 11/16/89 the following logs were referred to the field:

Log # 89-10994 referred to Queens FIAU (subject-P.O. [REDACTED] 105)

Log # 89-11783 referred to B.N. FIAU (subjects:POs [REDACTED])

Expenses Incurred

Invest. Off.  
Rank & Sign

SGT.

WILLIAM A. BRADLEY

Supr. LT.

JOHN SHIELDS.